



Memorandum

Date: **June 13, 2006**

To: **Planning Commission**

From: **Community Development Department**

Subject: **Zoning Amendment, ZA-05-05; Subdivision SD 05-06 & Development Agreement DA 05-04: E. Main-Marrad**

REQUEST

A request for approval of a tentative map to subdivide 9.7-acres, a request to amend the zoning to allow a Residential Planned Development (RPD), and a request to approve a development agreement for 26 units representing Phases I, II, & III of the San Savigno project located on the south side of E. Main Ave, 400 ft. east of the Calle Mazatan and E. Main Ave. intersection.

RECOMMENDATION

- | | |
|----------------------------------|---|
| Environmental Assessment: | Adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program |
| Application ZA-05-05 | Recommend City Council approval, subject to the findings and conditions contained in attached Resolution. |
| Application SD 05-06 | Recommend approval, subject to the findings and conditions contained in attached Resolution. |
| Application DA 05-04 | Recommend City Council approval, subject to the findings and conditions contained in attached Resolution. |

SITE DESCRIPTION

- | | |
|-----------------------------|---|
| Location: | South side of E. Main Ave., 400 ft. east of Calle Mazatan |
| Zoning\General Plan: | |
| Project Site: | R-1 7,000\Single-Family medium |
| North: | PF, Public Facility\R-1 7,000\Single-Family medium |
| South: | R-1 7,000\Single-Family medium |
| East: | R-1 7,000\Single-Family medium |
| West: | R-1 7,000\Single-Family medium |

BACKGROUND

In March 2004, the San Savigno project received a residential building allotment for 13 allocations for FY 2006-2007, 5 allocations for FY 2007-2008 and 8 allocations for FY 2008-09. The applications requested at this time are the project precise development plan (RPD), project development agreement and 27 lot (1 replacement unit) tentative map representing phases I, II & III of the project.

PROJECT ASSESSMENT

The project site includes fields of grass, a group of trees, a plastic fence (which separates the northern portion of the project site from the southern portion) and a driveway located along the western boundary of the project site. Calle Asta and Bel Air Way are dead end streets that terminate at the west and east sides of the project site, respectively.

Single-family residential land uses border the project site to the west, east, and south. A City water pumping station is located in the northeast corner of the project site. Wooden and wire fencing is located along the eastern, southern, and western project boundary. Most of the project site is covered with open-sided greenhouses. The northern portion of the project site consists of vacant land, a water tank, sprinkler system, trees, and seven structures. The structures include a one-story house and detached garage and six deteriorated accessory structures of various sizes.

Environmental Assessment: Due to the existing and proposed development on the site, an expanded initial study was completed to evaluate the potential impacts that may result from development of the site. The initial study identified the following as potential impacts.

Cultural Resources:

Due to the age (50+) of the structures on the site a cultural resources evaluation was completed. The evaluation concluded that the existing residence does not retain features that would have architectural significance or historic integrity and the other structures over 50 years of age are in poor condition and very little of the original character and appearance of these structures remains. The existing structures on the site were found not to be considered historically significant resources.

Biological

There are a total of 65 trees on the site. The majority of the trees are black or English walnut, however, pepper trees, coast live oaks, olive, and various landscape trees of significant size are also present on the site. Only seven of the 65 trees qualify as significant per the City's ordinance. Of the seven significant trees, only one is proposed for removal due to its location within the street. The majority of the significant trees and larger non indigenous trees are proposed to be preserved within the project. Mitigation for the lost significant tree requires replacement planting.

E. Main-Marrad

June 13, 2006

Page 3

No burrowing owls or signs of owls were detected during the site surveys due to the general lack of suitable habitat however the large trees and abandoned structures on-site has created potential habitat for bats. To mitigate potential impact to owls or bats, pre-construction surveys are required.

Drainage

Development of the site will increase the amount of impervious surfaces by 2.3 acres. The increase in impervious surfaces on the project site would result in the increase of runoff from the site. To mitigate the increase in run off, the project proposes a storm water detention pond on the southwest corner of the project site. The proposed detention pond would hold approximately six cfs of runoff which should mitigate potential drainage impacts.

Noise

A noise monitoring survey was completed in September and October 2005 to quantify the daily trend in noise levels at the project site. The existing noise levels at the project site range from 54 dBA to 66 dBA L_{dn}. The primary source of noise is from vehicular traffic on East Main Avenue; therefore, future residents nearest to East Main Avenue would be exposed to the highest noise levels on the project site. Noise levels at these residences and their outdoor use areas were estimated to be 66 dBA L_{dn}, which would exceed the normally acceptable compatibility standard of 60 dBA L_{dn} in the Morgan Hill General Plan. To mitigate the traffic noise, a 6 ft. noise barrier will be required for rear yard areas adjacent to East Main.

Noise measurements were also taken at the southernmost property line of the existing water pump facility during the operation of the pumps. The pump station runs intermittently based on demand and generates noise levels of about 52 dBA at a distance of 30 feet while operating. In the absence of traffic noise along East Main Avenue operational noise would be occasionally audible and may be considered annoying to residents located adjacent to the westernmost and southernmost property line of the pump station. To mitigate the pump noise, a 6 ft. noise barrier will be required for rear or side yard areas adjacent to the pump station.

A Mitigated Negative Declaration has been prepared which contains mitigation measures which should reduce both long and short term impacts to less than significant levels.

Zoning: This Zoning Amendment would establish a precise development plan for a 35 unit residential development on lots which range in size from 3,611 to 9,900 sq. ft. The minimum lot size within the R-1 7,000 zoning district is 7,000 sq. ft. for single family detached and 3,500 sq. ft. for single family attached dwellings. None of the BMR or moderate lots fall below 3,500 sq. ft. and only 12 of the market rate lots fall below 7000 sq. ft. but are each greater than 6000 sq. ft. The reduction in the minimum lot size allows for the creation of a one acre park within the center of the project and a .5 acre park in the south west corner of the site which has a pathway connection to Diana Park. The proposed one acre park will contain the project recreational amenities which include a tot lot, ½ basket ball court and shade structure. The units as proposed on the lots meet the R-1 setback and building height requirement for single family homes and the requirements for the modified attached homes. A matrix indicating the model and elevation per lot, per phase has been provided by the applicant to help illustrate the phasing of the project.

E. Main-Marrad

June 13, 2006

Page 4

The precise development plan meets most the RDCS commitments, however, the proposed plan clusters three of the five BMRs and two of the four moderate rate units on lots 5, 6, 7, 8 & 9 in the north east corner of the project. The remaining four BMRs and moderate rate units are clustered on one block toward the center of the project. Staff recommends as a condition of approval that a pair of moderate/BMR units facing E. Main be moved to either lot 1 or 35 so the attached units are dispersed more evenly through out the project.

To minimize the use of sound walls along E. Main, the proposed development plan reversed the units proposed on lots 5, 6, 7 & 8; fronting units toward E. Main. Reversing the units on lots 5, 6, 7 & 8, allowed for the minimization of wall but the front yard setbacks no longer exceed the minimum by 10 ft. If the front setback is increased by 10 ft., the rear yard area becomes unusable due to the encroachment of the driveway. Again, staff recommends as a condition of approval that a pair of moderate/BMR units facing E. Main be moved to either lot 1 or 35. A larger single family lot would be able to accommodate an increased front setback and also provide a useable rear yard area.

The adjacent single family development to the west avoided the use of a sound wall along E. Main Ave. by fronting units to Main and providing access and rear yards interior to the project. As previously mentioned, the proposed project also fronts units onto E. Main to minimize the use of sound walls however, lot 4 has a rear yard backing to E. Main. Per the noise assessment, a 6 ft. sound wall is required to reach 65 Ldns in the rear yard areas adjacent to E. Main. To comply with this requirement, a 6 ft. wall would need to be constructed around the north, east and west side of lot 4 and along the west side of lot 5.

The project phasing plan indicates 14 units for phase I (13 allotments + 1 replacement), 5 units for phase II and 8 units for phase III. The proposed project phasing as proposed includes the required number of BMRs, moderates, single story and alternative garage units within each phase.

The phase I project improvements include all of the internal streets plus the creation and landscaping of the open space parcel between lots 4 & 5 and the 1 acre park parcel. Due to the small size of phase II (5 units) no improvement are required within that phase. Improvement to be installed in Phase III include the installation of the $\frac{1}{2}$ basket ball court, shade structure or gazebo or a shade trellis and a tot lot within the one acre park. Phase IV (which is not yet allocated) would be required to create and landscape the .5 acre open park in the south west corner of the project as well as install the landscaping on the path leading to Diana park.

Tentative Map: The overall project site is 9.7 acres. The proposed vesting tentative map should be for 27 lots for Phases I through III. Phase IV (8 lots) has not yet received allocations. A separate tentative map approval will need to be filed once allocations are awarded for phase IV. As a condition of approval, the proposed tentative map will need to be amended to show a total of 27 residential lots, a 1 acre park parcel and a 6,600 sq. ft open space area parcel. The lots as proposed meet the applicable city standards and the overall lot layout and circulation is

consistent with the proposed RPD. The modified setback units will need to meet the requirements of Ordinance 1641 and 1700. There are no recommended changes for the proposed subdivision.

Development Agreement: The applicant is requesting approval of the project development agreement. The development agreement is for phase's I-III only. Project development agreements are required as a formal contract between the developer and the City. The development agreement formalizes the commitments made during the Measure P process and establishes the development schedule for the project. The project specific commitments are identified in Paragraph 14 of the development agreement, and the development schedule is contained in Exhibit B. The development agreement for the San Savigno project has been completed and is attached as Exhibit A of Development Agreement approval resolution. Staff recommends approval of the development agreement, as prepared.

RECOMMENDATION

Staff recommends approval of the zoning amendment, subdivision, and development agreement applications, subject to the findings and conditions contained in the attached resolutions.

Attachments

1. RPD Matrix
2. Mitigated Negative Declaration and
Mitigation Monitoring and Reporting Program
3. Resolution approving zoning
4. Resolution approving subdivision
5. Resolution approving development agreement
6. Project Plans
7. Vicinity Map

SAN SAVIGNO PLANNING MATRIX

Lot #	Plan #	Elev.			Street Name	Size		
	Phase 1							
1	4 C				San Savigno Circle			
2	1 A				San Savigno Circle			
3	3 C				San Savigno Circle			
4	4 B				San Savigno Circle			
5	5M	A		Moderate	San Savigno Circle			
6	5MR	A		BMR Median	San Savigno Circle			
7	5M	B		BMR Low	San Savigno Circle			
8	5MR	B		BMR Median	San Savigno Circle			
9		5 A		Moderate	San Savigno Circle			
10		4 B			San Savigno Circle			
11		2 C			San Savigno Circle			
12	3R	A			San Savigno Circle			
34		1 C			San Savigno Circle			
35		2 B			San Savigno Circle			
	Phase 2							
13		2 B			San Savigno Circle			
14		4 C			San Savigno Circle			
15		2 A			San Savigno Circle			
16		3 B			San Savigno Circle			
17		4 A			San Savigno Circle			
	Phase 3							
18		2 C			San Savigno Circle			
19		6 B		Moderate	San Savigno Circle			
20	5R	B		BMR Low	San Savigno Circle			
21		5 A		BMR Median	San Savigno Circle			
22	6R	A		Moderate	Bel Air Way			
23		1 C			Bel Air Way			
24		2 B			Bel Air Way			
25	3R	A			Bel Air Way			
	Phase 4							
26		1 B			Bel Air Way			
27		2 C			Bel Air Way			
28		1 A			Bel Air Way			
29	4R	B			Bel Air Way			
30	2R	C			San Savigno Circle			
31		2 A			San Savigno Circle			
32	1R	B			San Savigno Circle			
33	2R	A			San Savigno Circle			
	Phase 1	Phase 2	Comments			Phase 3	Phase 4	Totals
Plan 1	2	0	Single Story			1	3	6
Plan 2	2	2	2 Story			2	4	10
Plan 3	2	1	2 Story			1	0	4
Plan 4	3	2	2 Story			0	1	6
Plan 5	5	0	5 BMR, 2 Moderates			2	0	7
Plan 6	0	0	Moderate			2	0	2
		14	5	2 Story		8	8	35

SAN SAVIGNO PLANNING MATRIX

Plan				ELEVATION MIX		(Note: Paired units must have same elevation)	(Note: These are paired with Plan 5)		
	"A"	"B"	"C"	Totals					
1	2	2	2		6				
2	3	3	4		10				
3	2	1	1		4				
4	1	3	2		6				
5	4	3	0		7	(Note: Paired units must have same elevation)			
6	1	1	0		2	(Note: These are paired with Plan 5)			
Totals	13	13	9		35				
				Plan Sizes	Home	1st	2nd	Total	
					1 2489 sq. ft.				
					2 2734 sq. ft.				
					3 2898 sq. ft.				
					4 3187 sq. ft.				
					5 1549 sq. ft.				1569
				5M	1549 sq. ft.				1569
					6 1599 sq. ft.				



COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

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MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Date: May 24, 2006 **Application #s:** ZA 05-05, SD 05-06, DA 05-04

APN: 726-16-028

Project Title: Main-Marrad Project

Project Location: The approximately 9.7-acre project site is located on East Main Avenue, on the south side of East Main Avenue, between Grand Prix Way and Calle Mazatan in the City of Morgan Hill.¹

Project Proponent: Marrad Group, P.O. Box 1767, Morgan Hill, CA 95037

Project Description: The project proposes to rezone the 9.7-acre project site from R-1 7,000 to R-1 7,000 RPD and subdivide the project site to allow development of 35 single-family residential units on approximately 5.1 acres of the project site and private park/open space on approximately two acres of the project site. The remaining 2.6 acres of the site is proposed to be dedicated as public street right-of-way. A stormwater detention pond is proposed at the southwest corner of the project site. In addition, the project proposes to close access to the site from East Main Avenue and extend Calle Asta and Bel Air Way to the project site to provide access. A public street is proposed within the project site to allow for internal circulation.

¹ Due to the physical orientation of the site, true north is toward the intersection of East Main Avenue and Grand Prix Way. For ease of reference, East Main Avenue is considered north of the project site.

II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures are included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

III. CONDITIONS (Mitigation and Avoidance Measures):

A. Air Quality

The project applicant shall ensure project conformance with permit requirements of grading and building permits issued by the City of Morgan Hill and implement the following mitigation measures to reduce construction-related air quality impacts to a less than significant level:

- Water all active construction areas at least twice daily.
- Cover all trucks hauling soil, sand, or other loose materials or require all trucks to maintain at least two feet of freeboard.
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

B. Biological Resources

The developer shall participate in the Citywide Burrowing Owl Habitat Mitigation Plan, a mitigation program acceptable to the California Department of Fish and Game. In conformance with the City's Burrowing Owl Habitat Mitigation Plan, the project proposes the following measures to avoid direct impacts to burrowing owls:

- Pre-construction surveys to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities.
- Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside of the exclusion area until the young have fledged.
- If preconstruction surveys are conducted during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided.
- The City of Morgan Hill has adopted a fee program that funds setting aside or managing Preserve Land to provide habitat for burrowing owls. Providing habitat for burrowing owls

elsewhere offsets indirect and cumulative impacts from the loss of foraging and nesting habitat in the City during the current General Plan planning horizon. Prior to issuance of a building permit, the project applicant shall pay the Burrowing Owl Fee of \$1.076/acre for a commercial project to offset the cost of implementing the Citywide Burrowing Owl Habitat Mitigation Plan.

- A final report on burrowing owls, including any protection measures, shall be submitted to the Director of Community Development prior to start of grading.

The project applicant shall implement the following mitigation measures to reduce impacts to bats to a less than significant level:

- Pre-demolition and pre-construction surveys for roosting bats shall be conducted by a qualified bat biologist after the maternity season and before the wet season (i.e., between August 15 and October 15) and 14 days prior to any removal of buildings or removal of trees greater than 12 inches in diameter. No activities that would result in disturbance to active roosts shall proceed prior to the completed surveys. If no active roosts are found, then no further action shall be warranted. If a maternity roost is present, a qualified bat biologist shall determine the extent of construction-free zones around active nurseries located during surveys. The California Department of Fish and Game shall also be notified of any active nurseries within the construction zones.
- Initial surveys can be conducted any time prior to the pre-demolition surveys to establish if a particular location has supported, or supports, roosting bats. A survey for indications of nursery roosts would be conducted prior to March 1. If indications of a maternity roost are present, the structure can not be removed or modified before a maternity roost becomes established.
- In the event an active maternity colony of bats is found on the site, demolition shall occur after August 31 and before March 1 to avoid interfering with any active nursery. If a non-breeding bat hibernaculum is found in the buildings to be demolished, the individuals shall be safely evicted, under the direction of a qualified bat biologist, through a “partial dismantle” process, whereby the roosting area is opened to allow airflow through and sunlight into the buildings, making it unsuitable habitat and undesirable for the bats to return to the site. Demolition shall then follow no later than the following day (i.e., there shall be no less than one night between initial disturbance for airflow and the demolition). This action allows bats to leave during the night, thus increasing their chances of finding new roosts with a minimum of potential predation during daylight hours.
- A final report on bats, including any protection measures, shall be submitted to the Director of Community Development prior to start of grading.

The project applicant shall implement the following mitigation measures to reduce impacts to trees to a less than significant level:

Tree Preservation

- Locate structures, grade changes, etc. as far as feasible from the ‘dripline’ area of a tree to be preserved.
- Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5

times the ‘dripline’ area of preserved trees. Where root damage cannot be avoided, roots encountered (over one inch in diameter) shall be exposed approximately 12-inches beyond the area to be disturbed (towards tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or a power saw, and immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain.

- Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and six to eight feet in height. Post no parking or storage signs outside or on the fencing. Signs shall not be posted on the mainstem of trees.
- Do not allow vehicles, equipment, pedestrian traffic, building materials, and/or debris storage; or disposal of toxic or other materials inside of the fenced off area.
- Avoid pruning immediately before, during, or immediately after construction impact. Perform only pruning which is unavoidable due to conflicts with proposed development. Aesthetic pruning shall not be performed for at least one to two years following completion of construction.
- Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities, with not more than six pounds of actual nitrogen per 1,000 square feet of accessible ‘dripline’ area or beyond.
- Mulch rooting area with an acidic, organic compost or mulch.
- Arrange for periodic (Biannual/Quarterly) inspection of tree’s condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate.
- Individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or a more detailed specification than those contained within these general guidelines.

Tree Replacement

- A tree replacement plan shall be developed that minimizes impacts to remaining trees and identifies the location and species to be planted to replace lost trees. All lost trees shall be replaced pursuant to the requirements of the City of Morgan Hill Tree Ordinance, which requires a tree removal permit for every significant sized tree to be removed.
- To the extent possible, healthy and mature trees shall be incorporated into project landscaping design. Where feasible, significant sized trees that are removed, should be boxed and replanted on-site as part of the project landscaping.

C. Cultural Resources

In the unlikely event that historic or prehistoric resources are uncovered during project construction, the following standard measures shall be implemented:

- In the event any prehistoric or significant historic era cultural materials are encountered

during subsurface construction, all construction within a radius of 50 feet of the find shall be halted, the Director of the Community Development Department would be notified, and an archaeologist shall be retained to examine the find to make appropriate recommendations.

- If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner shall determine whether or not the remains were Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who shall attempt to identify descendants of the deceased Native American.
- If the Director of the Community Development Department finds that the cultural resource find is not a significant resource, work shall resume only after the submittal of a preliminary report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial shall follow the protocol set forth in the CEQA Guidelines. If the site is found to be a significant archaeological site, a mitigation program shall be prepared and submitted to the Director of the Community Development Department for consideration and approval, in conformance with the protocol set forth in the CEQA Guidelines.

D. Geology and Soils

The adverse effects of expansive soils shall be avoided using the standard engineering and design techniques applied to new construction project in the City of Morgan Hill, including the following:

- Prior to issuance of building permits, the applicant shall provide two copies of a soils (geotechnical) engineering report prepared by a registered civil (geotechnical) engineer. The report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading criteria for corrective measures, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes, per Uniform Building Code (UBC) Appendix Chapter 70. The report shall also include soil classification and foundation investigation as required by UBC Chapter 29 (UBC Appendix Chapter 33).
- Prior to issuance of building permits, the applicant shall provide two copies of an engineering geology report, prepared by a registered Engineer Geologist. The report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors (UBC Appendix Chapter 23).
- The project shall implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.

E. Hazards and Hazardous Materials

The project shall conform to the following regulatory programs and implement the following standard measures to reduce or avoid potential impacts due to the presence of ACMs and/or lead-based paint:

- As appropriate, a lead survey of painted surfaces and soil around the residence shall be performed prior to demolition. Requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, CCR 1532.1 shall be followed during demolition activities, including

employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the waste being disposed.

- All potentially friable ACMs shall be removed in accordance with the NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with OSHA standards contained in Title 8 of the CCR, Section 1529, to protect workers from exposure to asbestos. Specific measures could include air monitoring during demolition and the use of vacuum extraction for asbestos-containing materials.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one (1) percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one (1) percent asbestos shall be completed in accordance with BAAQMD requirements.

F. Hydrology and Water Quality

The following standard mitigation and avoidance measures are included in the project to avoid or reduce drainage and/or flooding impacts:

- The proposed project includes the construction of a stormwater detention area located near the southwestern corner of the project site. In accordance with the City of Morgan Hill Standard Conditions of Approval, the project shall prepare and submit a Storm Drainage Study to the Director of Public Works for review and approval. The Study shall include calculations to determine final detention pond sizing and operations and demonstrate how the runoff rate from the proposed project would be less than or equal to existing conditions.
- All stormwater runoff from the project site shall be diverted into the proposed stormwater detention area.

The following standard mitigation measure and proposed Best Management Practices (BMPs) shall be implemented to reduce or avoid water quality impacts:

Pre-Construction

- In accordance with the City of Morgan Hill Standard Conditions of Approval and the General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities, the project will prepare a Storm Water Pollution Prevention Plan (SWPPP) and an Erosion Control Plan (ECP). The plans will be submitted to the Director of Public Works and Central Coast Regional Water Quality Control Board for review and approval, prior to issuance of a building permit. The ECP and SWPPP shall demonstrate how the project would eliminate or reduce non-stormwater discharges into the stormwater system, how discharges into the stormwater system would be monitored, and what Best Management Practices (BMPs) shall be implemented by the project to avoid water quality impacts during construction (e.g., street sweeping, fiber rolls, temporary cover and/or permanent cover) and post-construction periods.

- The project includes the following BMPs:
 - Place fiber rolls or silt fence around the perimeter of the site;
 - Protect existing storm and sewer inlets in the area from sedimentation with filter fabric and sand or gravel bags;
 - Designate a concrete truck washdown area;
 - Cover stockpiles with secured plastic sheeting or tarps;
 - Keep site clear of trash and litter; and
 - Install filtered inlets in paved areas.

Post-Construction

- Direct roof downspouts to splash blocks which will allow the stormwater to filter through grass and landscaping prior to reaching the storm drain system.

G. Noise

The project includes the following mitigation measures to reduce exterior noise levels to 60 dBA or below:

- Design and construct noise barriers to reduce noise at exterior use areas adjacent to East Main Avenue and the pump station. A six-foot noise barrier (relative to the pad elevation) would provide about five dBA of noise reduction for traffic noise generated along East Main Avenue. The final detailed design of the heights and limits of this barrier shall be completed at the time that the final grading plan is submitted and be subject to review and approval of the Chief Building Official prior to issuance of the building permit.
- Complete an acoustical analysis prepared by a licensed professional, specifying the manner in which interior noise levels shall be reduced to the required 45 dBA Ldn or lower. The details of noise attenuation recommended in the report shall be subject to review and approval of the Chief Building Official prior to issuance of the building permit (UBC Appendix 1208).

Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for units proposed on lots 1-5, 1-6, and 1-7 in order for windows to be kept closed at the occupant's discretion to control noise (refer to Figure 5).

The proposed project includes the following standard mitigation measures to reduce construction-related noise impacts to a less than significant level:

- Construction activities shall be limited to the hours between 7:00 AM and 8:00 PM, Monday through Friday, and between the hours of 9:00 AM and 6:00 PM on Saturdays. No construction activities should occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code).
- Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment as far as possible from adjacent residential receivers.

- Utilize "quiet" air compressors and other stationery noise sources where technology exists.
- The contractor shall prepare a construction plan identifying the schedule for major noise-generating construction activities (e.g., site grading). The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- A "Noise Disturbance Coordinator", responsible for responding to any local complaints about construction noise will be designated by the project applicant. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator will be conspicuously posted at the construction site and included in notices sent to neighbors regarding the construction schedule.
- Prior to issuance of a building permit, the owner shall submit to the Community Development Director for his approval, a management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.

H. Utilities and Service Systems

The following standard mitigation and avoidance measures are included in the project to avoid or reduce drainage and/or flooding impacts:

- The proposed project includes the construction of a stormwater detention area located near the southwestern corner of the project site. In accordance with the City of Morgan Hill Standard Conditions of Approval, the project shall prepare and submit a Storm Drainage Study to the Director of Public Works for review and approval. The Study would include calculations to determine final detention pond sizing and operations and demonstrate how the runoff rate from the proposed project would be less than or equal to existing conditions.
- All stormwater runoff from the project site shall be diverted into the proposed stormwater detention area.

IV. FINDING

The City of Morgan Hill Community Development Director hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the Initial Study are included in the project.

Kathleen Molloy Previsich
Community Development Director

Date: _____

MITIGATION MONITORING AND REPORTING PROGRAM

MAIN-MARRAD

ZA 05-05, SD 05-06, DA 05-04



CITY OF MORGAN HILL

JUNE 2006

PREFACE

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

On July 19, 2006, the Mitigated Negative Declaration was approved for the Main-Marrad Project. The Initial Study/Mitigated Negative Declaration concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses these measures in terms of how and when they will be implemented.

**MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)**

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
AIR QUALITY				
Construction of the proposed project could result in significant short-term air quality impacts associated with dust generation.	<p>The following measures shall be implemented by the project, in conformance with the requirements of grading and building permits issued by the City of Morgan Hill:</p> <ul style="list-style-type: none"> • Water all active construction areas at least twice daily. • Cover all trucks hauling soil, sand, or other loose materials or require all trucks to maintain at least two feet of freeboard. • Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets. 	To be implemented during construction by the contractors.	All measures are on all construction documents, contracts, and project plans.	Director of Community Development
BIOLOGICAL RESOURCES				
Development of the project could impact individual burrowing owls if they moved onto the site.	<p>The developer shall participate in the Citywide Burrowing Owl Habitat Mitigation Plan, a mitigation program acceptable to the California Department of Fish and Game. In conformance with the City's Burrowing Owl Habitat Mitigation Plan, the project proposes the following measures to avoid direct impacts to burrowing owls:</p> <ul style="list-style-type: none"> • Pre-construction surveys to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities. • Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside of the exclusion area until the young have fledged. 	<p>To be implemented within 30 days prior to any ground disturbing activities by a qualified ornithologist.</p>	<p>All measures are on all construction documents, contracts, and project plans.</p> <p>If active nests are encountered a report shall be submitted by qualified ornithologist to the Environmental Planner of Community</p>	Environmental Planner

MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<ul style="list-style-type: none"> • If preconstruction surveys are conducted during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided. • Prior to issuance of a building permit, the project applicant shall pay the Burrowing Owl Fee of \$1.076/acre for a commercial project to offset the cost of implementing the Citywide Burrowing Owl Habitat Mitigation Plan. • A final report on burrowing owls, including any protection measures, shall be submitted to the Director of Community Development prior to grading. 		<p>To be implemented by the applicant prior to issuance of a building permit.</p> <p>To be implemented by the applicant prior to grading.</p>	<p>If burrowing owls are encountered, a report shall be submitted by a qualified biologist to the Director of Community Development. The recommendations in the report shall be implemented prior to the start of grading.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans.</p>
The development of the proposed project could impact bat maternity colonies.	<p>The project applicant shall implement the following mitigation measures to reduce impacts to bats to a less than significant level:</p> <ul style="list-style-type: none"> • Pre-demolition and pre-construction surveys for roosting bats shall be conducted by a qualified bat biologist after the maternity season and before the wet season (i.e., between August 15 and October 15) and 14 days prior to any removal 		<p>To be implemented by a qualified bat biologist between August 15 and October 15, and 14 days prior to any removal</p>	<p>Director of Community Development and CDFG, as appropriate.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>of buildings or removal of trees greater than 12 inches in diameter. No activities that would result in disturbance to active roosts shall proceed prior to the completed surveys. If no active roosts are found, then no further action shall be warranted. If a maternity roost is present, a qualified bat biologist shall determine the extent of construction-free zones around active nurseries located during surveys. The California Department of Fish and Game shall also be notified of any active nurseries within the construction zones.</p> <ul style="list-style-type: none"> • Initial surveys can be conducted any time prior to the pre-demolition surveys to establish if a particular location has supported, or supports, roosting bats. A survey for indications of nursery roosts would be conducted prior to March 1. If indications of a maternity roost are present, the structure can not be removed or modified before a maternity roost becomes established. • In the event an active maternity colony of bats is found on the site, demolition shall occur after August 31 and before March 1 to avoid interfering with any active nursery. If a non-breeding bat hibernaculum is found in the buildings to be demolished, the individuals shall be safely evicted, under the direction of a qualified bat biologist, through a “partial dismantle” process, whereby the roosting area is opened to allow airflow through and sunlight into the buildings, making it unsuitable habitat and undesirable for the bats to return to the site. Demolition shall then follow no later than the following day (i.e., there shall be no less than one night between initial disturbance for airflow and the demolition). This action allows bats to leave during the night, thus increasing their chances of finding new roosts with a 	<p>removal of buildings and trees 12-inches or greater.</p>	<p>If bats are encountered, a report shall be submitted by a qualified bat biologist to the Director of Community Development. The recommendations in the report shall be implemented prior to the start of grading.</p>	

MITIGATION MONITORING AND REPORTING PROGRAM MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)				
Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
minimum of potential predation during daylight hours.	<ul style="list-style-type: none"> A final report on bats, including any protection measures, shall be submitted to the Director of Community Development prior to start of grading. 	To be implemented by the applicant prior to grading.		
The removal of significant sized trees would result in a significant impact.	<p>The project applicant shall implement the following mitigation measures to reduce this impact to a less than significant level:</p> <p>Tree Preservation</p> <ul style="list-style-type: none"> Locate structures, grade changes, etc. as far as feasible from the 'dripline' area of a tree to be preserved. Avoid root damage through grading, trenching, compaction, etc., at least within an area 1.5 times the 'dripline' area of preserved trees. Where root damage cannot be avoided, roots encountered (over one inch in diameter) shall be exposed approximately 12-inches beyond the area to be disturbed (towards tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or a power saw, and immediately back-filled with soil. Avoid tearing, or otherwise disturbing that portion of the root(s) to remain. Construct a temporary fence as far from the tree stem (trunk) as possible, completely surrounding the tree, and six to eight feet in height. Post no parking or storage signs outside or on the fencing. Signs shall not be posted on the mainstem of trees. Do not allow vehicles, equipment, pedestrian traffic, building 	<p>To be implemented during the construction phase by contractors.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	Director of Community Development.	

**MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)**

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>materials, and/or debris storage; or disposal of toxic or other materials inside of the fenced off area.</p> <ul style="list-style-type: none"> • Avoid pruning immediately before, during, or immediately after construction impact. Perform only pruning which is unavoidable due to conflicts with proposed development. Aesthetic pruning shall not be performed for at least one to two years following completion of construction. • Trees that will be impacted by construction may benefit from fertilization, ideally performed in the fall, and preferably prior to any construction activities, with not more than six pounds of actual nitrogen per 1,000 square feet of accessible 'dripline' area or beyond. • Mulch rooting area with acidic, organic compost or mulch. • Arrange for periodic (Biannual/Quarterly) inspection of tree's condition, and treatment of damaging conditions (insects, diseases, nutrient deficiencies, etc.) as they occur, or as appropriate. • Individual trees likely to suffer significant impacts may require specific, more extensive efforts and/or a more detailed specification than those contained within these general guidelines. 		<p align="center">Tree Replacement</p> <ul style="list-style-type: none"> • A tree replacement plan shall be developed that minimizes impacts to remaining trees and identifies the location and species to be planted to replace lost trees. All lost trees shall 	

MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>be replaced pursuant to the requirements of the City of Morgan Hill Tree Ordinance, which requires a tree removal permit for every significant sized tree to be removed.</p> <ul style="list-style-type: none"> • To the extent possible, healthy and mature trees shall be incorporated into project landscaping design. Where feasible, significant sized trees that are removed, should be boxed and replanted on-site as part of the project landscaping. 			
CULTURAL RESOURCES	<p>Although the site is not located within an archaeologically sensitive area and there are no known archaeological resources on the site, there is a potential to uncover previously unrecorded prehistoric or historic cultural resources during ground disturbing construction activities.</p>	<p>In the unlikely event that historic or prehistoric resources are uncovered during project construction, the following standard measures shall be implemented:</p> <ul style="list-style-type: none"> • In the event any prehistoric or significant historic era cultural materials are encountered during subsurface construction, all construction within a radius of 50 feet of the find shall be halted, the Director of the Community Development Department would be notified, and an archaeologist shall be retained to examine the find to make appropriate recommendations. • If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner shall determine whether or not the remains were Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who shall attempt to identify descendants of the deceased Native American. • If the Director of the Community Development Department finds that the cultural resource find is not a significant 	<p>To be implemented if any significant cultural resources are encountered. Contractors shall stop work, in the immediate area of the findings, and notify the Director of Community Development.</p>	<p>If cultural resources are encountered a report shall be submitted by qualified archaeologist to the Environmental Planner.</p> <p>Director of Community Development</p>

MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>resource, work shall resume only after the submittal of a preliminary report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial shall follow the protocol set forth in the CEQA Guidelines. If the site is found to be a significant archaeological site, a mitigation program shall be prepared and submitted to the Director of the Community Development Department for consideration and approval, in conformance with the protocol set forth in the CEQA Guidelines.</p>			
	<p>GEOLOGY AND SOILS</p> <p>Due to the expansion potential of on-site soils, there is a potential to expose people and structures to significant geological hazards.</p>	<p>The adverse effects of expansive soils shall be avoided using the standard engineering and design techniques applied to new construction project in the City of Morgan Hill:</p> <ul style="list-style-type: none"> • Prior to issuance of building permits, the applicant shall provide two copies of a soils (geotechnical) engineering report prepared by a registered civil (geotechnical) engineer. The report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading criteria for corrective measures, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes, per Uniform Building Code (UBC) Appendix Chapter 70. The report shall also include soil classification and foundation investigation as required by UBC Chapter 29 (UBC Appendix Chapter 33). • Prior to issuance of building permits, the applicant shall provide two copies of an engineering geology report, prepared by a registered Engineer Geologist. The report shall include 	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>To be completed by a registered civil engineer prior to the issuance of building permits.</p> <p>To be completed by a registered engineer geologist</p>

MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors (UBC Appendix Chapter 23).</p> <ul style="list-style-type: none"> • The project shall implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site. 	<p>prior to the issuance of building permits.</p>		
The project is subject to seismic related hazards.	<p>Per standard practice in the City of Morgan Hill, the project shall be designed and constructed in conformance with the Uniform Building Code guidelines for Seismic Zone 4.</p>	<p>To be implemented during the construction phase by contractors.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Community Development.</p>
HAZARDS AND HAZARDOUS MATERIALS				
Demolition of the existing residence may expose construction workers, residents, or school children in the vicinity to harmful levels of lead or ACMs.	<p>The project shall be required to conform to the following regulatory programs and to implement the following standard measures to reduce or avoid potential impacts due to the presence of ACMs and/or lead-based paint:</p> <ul style="list-style-type: none"> • As appropriate, a lead survey of painted surfaces and soil around the residence shall be performed prior to demolition. Requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, CCR 1532.1 shall be followed during demolition activities, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the waste being disposed. 	<p>To be implemented prior to demolition of buildings built prior to 1978 by a qualified professional.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Public Works</p>

MITIGATION MONITORING AND REPORTING PROGRAM MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)				
Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<ul style="list-style-type: none"> All potentially friable ACMs shall be removed in accordance with the NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with OSHA standards contained in Title 8 of the CCR, Section 1529, to protect workers from exposure to asbestos. Specific measures could include air monitoring during demolition and the use of vacuum extraction for asbestos-containing materials. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above. Materials containing more than one (1) percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one (1) percent asbestos shall be completed in accordance with BAAQMD requirements. 	To be implemented during demolition activities by project contractors.		Director of Public Works.

HYDROLOGY AND WATER QUALITY

Development of the proposed project would increase the amount of impervious surfaces by 2.3 acres. The increase in impervious surfaces on the project site would result in the increase of runoff from the site.	<p>The following standard mitigation and avoidance measures are included in the project to avoid or reduce drainage and/or flooding impacts:</p> <ul style="list-style-type: none"> The proposed project includes the construction of a stormwater detention area located near the southwestern corner of the project site. In accordance with the City of Morgan Hill Standard Conditions of Approval, the project shall prepare and submit a Storm Drainage Study to the Director of Public Works for review and approval. The Study 	<p>The applicant shall be responsible for the preparation and submittal of a Storm Drainage Study to the Director of Public Works prior to issuance of building permits.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	Director of Public Works.
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MITIGATION MONITORING AND REPORTING PROGRAM MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)				
Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>would include calculations to determine final detention pond sizing and operations and demonstrate how the runoff rate from the proposed project would be less than or equal to existing conditions.</p> <ul style="list-style-type: none"> • All stormwater runoff from the project site shall be diverted into the proposed stormwater detention area. <p>The following standard mitigation measure and proposed Best Management Practices (BMPs) shall be implemented to reduce or avoid water quality impacts:</p> <p style="text-align: center;">Pre-Construction</p> <ul style="list-style-type: none"> • The project shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and an Erosion Control Plan (ECP). The plans shall be submitted to the Director of Public Works and Central Coast Regional Water Quality Control Board for review and approval, prior to issuance of a building permit. The ECP and SWPPP shall demonstrate how the project would eliminate or reduce non-stormwater discharges into the stormwater system, how discharges into the stormwater system would be monitored, and what Best Management Practices (BMPs) would be implemented by the project to avoid water quality impacts during construction (e.g., street sweeping, fiber rolls, temporary cover and/or permanent cover) and post-construction periods. 	To be implemented by contractors during construction.		Director of Public Works. Central Coast Regional Water Quality Control Board representative.
Implementation of the proposed project could result in increased stormwater pollution, particularly during construction.	<ul style="list-style-type: none"> • The project includes the following BMPs: <ul style="list-style-type: none"> – Place fiber rolls or silt fence around the perimeter of the site; 	To be implemented by the applicant and contractors.		The Director of Public Works shall ensure that the project installs and

MITIGATION MONITORING AND REPORTING PROGRAM MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)				
Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<ul style="list-style-type: none"> – Protect existing storm and sewer inlets in the area from sedimentation with filter fabric and sand or gravel bags; – Designate a concrete truck washdown area; – Cover stockpiles with secured plastic sheeting or tarps; – Keep site clear of trash and litter; and – Install filtered inlets in paved areas. <p style="text-align: center;">Post-Construction</p> <ul style="list-style-type: none"> • Direct roof downspouts to splash blocks which allows the stormwater to filter through grass and landscaping prior to reaching the storm drain system. 		implements regular maintenance activities by monitoring the site.	
NOISE	<p>The proposed residences and outdoor use areas closest to East Main Avenue would be subjected to noise levels above the City's normally acceptable noise standard of 60 dBA L_{dBn}.</p>	<p>The project includes the following mitigation measure to reduce noise levels to 60 dBA or below:</p> <ul style="list-style-type: none"> • Design and construct noise barriers to reduce noise at exterior use areas adjacent to East Main Avenue and the pump station. A six-foot noise barrier (relative to the pad elevation) would provide about five dBA of noise reduction for traffic noise generated along East Main Avenue. The final detailed design of the heights and limits of this barrier shall be completed at the time that the final grading plan is submitted and be subject to review and approval of the Chief Building Official prior to issuance of the building permit. • Complete an acoustical analysis prepared by a licensed professional, specifying the manner in which interior noise levels shall be reduced to the required 45 dBA Ldn or lower. The details of noise attenuation recommended in the report shall be subject to review and approval of the Chief Building 	<p>The project applicant shall be responsible for the design of the noise barriers and completion of the acoustical analysis by a qualified acoustical consultant. The final design and analysis shall be submitted to the Chief Building Official prior to issuance of building permits.</p>	<p>The City's Chief Building Official shall review and approve noise barrier design and acoustical analysis.</p> <p>The City's Chief Building Official shall review and approve noise barrier design and acoustical analysis.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>Official prior to issuance of the building permit (UBC Appendix 1208).</p> <p>Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for units proposed on lots 1-5, 1-6, and 1-7 in order for windows to be kept closed at the occupant's discretion to control noise.</p>			
<p>The construction of the proposed project would result in temporary noise impacts to nearby residences.</p>	<p>The proposed project includes the following standard mitigation measures to reduce construction-related noise impacts to a less than significant level:</p> <ul style="list-style-type: none"> • Construction activities shall be limited to the hours between 7:00 AM and 8:00 PM, Monday through Friday, and between the hours of 9:00 AM and 6:00 PM on Saturdays. No construction activities should occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code). • Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. • Locate stationary noise generating equipment as far as possible from adjacent residential receivers. • Utilize "quiet" air compressors and other stationery noise sources where technology exists. • The contractor shall prepare a construction plan identifying the schedule for major noise-generating construction activities (e.g., site grading). The construction plan shall identify a procedure for coordination with adjacent residential land uses 	<p>To be implemented during construction by the contractors.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Environmental Planner.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
MAIN-MARRAD (ZA 05-05, SD 05-06, DA 05-04)

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>so that construction activities can be scheduled to minimize noise disturbance.</p> <ul style="list-style-type: none"> • A “Noise Disturbance Coordinator,” responsible for responding to any local complaints about construction noise shall be designated by the project applicant. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in notices sent to neighbors regarding the construction schedule. • Prior to issuance of a building permit, the owner shall submit to the Community Development Director for approval, a management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project. 				

SOURCE: City of Morgan Hill, *Main-Marrad Initial Study, June 2006*.

RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL RECOMMENDING TO
THE CITY COUNCIL THE ESTABLISHMENT OF AN R-1
7,000/RESIDENTIAL PLANNED DEVELOPMENT ON A
9.67 ACRE SITE LOCATED ON THE SOUTH SIDE OF E.
MAIN AVE. APPROXIMATELY 400 FT. EAST OF THE
CALLE MAZATAN/E. MAIN INTERSECTION. (APN 726-
16-028)**

WHEREAS, such request was considered by the Planning Commission at their regular meeting of June 13, 2006, at which time the Planning Commission recommended approval of application ZA-05-05: E. Main Marrad; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The Planning Commission finds that the proposed Residential Planned Development zoning district is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.

SECTION 5. The Planning Commission recommends amendment to the City Zoning Map as shown in attached Exhibit "A".

SECTION 6. The Planning Commission hereby recommends approval of a precise development plan as contained in that certain series of documents dated June 2, 2006 (date of receipt by the Community Development Department) on file in the Community Development Department, entitled "San Savigno" prepared by MH Engineering and as amended as follows:

- (1) All floor plans & elevation shall be reviewed by the Architectural and Site Review Board (ARB) prior to final map approval.

SECTION 7: These documents, as further amended by site and architectural review, show the exact location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.

**PASSED AND ADOPTED THIS 13TH DAY OF JUNE, 2006, AT A REGULAR MEETING
OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

RALPH LYLE, Chair



Project Site

Zone Change from R-1 7,000 to R-1 7,000 RPD

Not to Scale



Prepared by Community Development Department

EXHIBIT A

ZA-05-05: Main - Marrad



RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL APPROVING A TENTATIVE
MAP FOR A 27-LOT SUBDIVISION OF A 9.67 ACRE SITE
LOCATED ON THE SOUTH SIDE OF THE E. MAIN AVE.
400 FT. EAST OF THE CALLE MAZATAN INTERSECTION.
(APN 726-16-028)**

WHEREAS, such request was considered by the Planning Commission at their regular meeting of June 13, 2006, at which time the Planning Commission approved application SD-05-06: E. Main-Marrad; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The proposed subdivision is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The approval of this subdivision is contingent upon the City Council approval of a Residential Planned Development zoning designation as contained in Zoning Amendment application ZA 05-05: E. Main-Marrad.

SECTION 3. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 5. The approved project shall be subject to the conditions as identified in exhibit "A", and by this reference incorporated herein.

**PASSED AND ADOPTED THIS 13th DAY OF JUNE 2006, AT A REGULAR MEETING
OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

**AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:**

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

RALPH LYLE, Chair

AFFIDAVIT

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

_____, Applicant

Date: _____

EXHIBIT "A"

STANDARD CONDITIONS

APPLICATION: SD05-06: E Main - Marrac

THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE ISSUANCE OF BUILDING AND/OR SITE DEVELOPMENT PERMITS EXCEPT AS OTHERWISE SPECIFIED IN THE CONDITIONS. APPROVAL REQUIREMENTS ARE NOT LIMITED TO THE ITEMS LISTED BELOW AND NOT ALL OF THE STANDARD CONDITIONS ARE APPLICABLE TO THE SITE OF A SPECIFIC PLANNING APPLICATION.

THOSE CONDITIONS MARKED BY AN "X" ARE APPLICABLE TO THE PROJECT APPLICATION REFERENCED ABOVE.

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

I. TIME LIMITS

- A. The Site and Architectural approval granted under this Resolution shall remain in effect for one year to _____, 200 _____. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. (MHM 18.74.250)
- B. The Tentative Subdivision/Parcel Map approval granted under this Resolution shall remain in effect for two years to June 13, 2002. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Community Development Department (parcel map)/Planning Commission (tentative map) prior to the expiration date. (MHM 17.20.170; 17.24.110)
- C. The Conditional Use Permit approval granted under this Resolution shall remain in effect for twelve (12) months to _____, 200 _____. Failure to commence the use within this term shall result in
- D. In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions. (MHM 18.54.090)
- E. Prior to approval and recordation of the final map, written certification from the Morgan Hill Unified School District shall be submitted to the Community Development Department which states that adequate school facilities are or will be capable of accommodating students generated by this project. Such letter of certification must have been issued by the School District within 90 days prior to the final map approval.
- F. _____

STANDARD CONDITIONS

Page - 2 -

II. SITE DEVELOPMENT

- X A. Prior to on-site grading, the applicant shall enter into an agreement with the City of Morgan Hill for consultant services. The City shall retain the services of a professional arborist to evaluate the condition of any on-site specimen tree(s) affected by construction activity, and recommend appropriate written specifications which will preserve such trees during and after construction. The City shall provide copies of said written specifications to the applicant, who shall assume responsibility for implementing all recommended actions contained in that document.

- X B. The applicant shall provide a set of Covenants, Conditions and Restrictions, Bylaws and Articles of Incorporation, for review and approval by the City Attorney prior to final occupancy or recordation of the final map. All such CC&Rs shall include the following text:

1. Common Areas/Right of Ways:

- a. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.

*Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill

- b. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have

standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.

- c. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association.
- d. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
- e. This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
- f. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance

STANDARD CONDITIONS

Page - 3 -

obligation or duty of maintenance is increased by such amendment.

2. Tree and Landscape Preservation: The Owners of the Units and Association shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove or alter any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.

3. Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner and the Association to insure that any changes or modifications to the Project or any Unit are in compliance with the original City conditions of approval of the Project, which are hereby incorporated herein as if set forth in full.

C. Final site development plans shall be reviewed and approved by the Community Development Department prior to issuance of a building permit. All such plans shall include:

1. Detail depicting all concrete curbs as full formed.

2. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing. (MHM 18.74.370)

3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities. (MHM 18.50.110; 18.74.470)

4. Trash enclosures shall be constructed of a sturdy, opaque material, minimum 6 feet in height with solid view obstructing gates and shall be designed in harmony with

the architecture of the building(s). In residential areas, trash enclosure areas shall require an overhead shade structure. Trash enclosures shall be required in all commercial and industrial projects and in residential projects containing four or more dwelling units. (MHM 18.74.505)

5. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berthing, and landscaping. (MHM 18.74.320) For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.

6. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.

X.D.

Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval, the number of lots on the final map shall be reduced to correspond to the remaining allotment. (MHM 18.78.020)

X.E.

Prior to recordation of the final map, the owner shall submit to the Community Development Director for his approval, a management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.

STANDARD CONDITIONS

Page - 4 -



F. Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval.

STANDARD CONDITIONS

Page - 5 -

commercial/industrial buildings with parking areas, open spaces and recreational uses.

III. BUILDING DESIGN

- A. All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 5 ft. or greater to match the height of any proposed equipment. (MHMC 18.74.320)
- B. Roof top lighting is not approved for any building within the project. Any ground mounted lighting projecting onto the building or site will be subject to the review and approval of the Director of Community Development. Adjustment to the lighting intensity may be required after the commencement of the use. All parking lot lighting shall be high pressure sodium. (MHMC 18.74.360)
- C. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior. (MHMC 18.74.360)
- D. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building. (MHMC 18.74.340)

- C. All units shall be provided with automatic garage door openers if driveway is less than 18 feet in depth from back of sidewalk.
- D. Prior to final map approval or issuance of a building permit, the owner shall record an appropriate deed restriction and covenant running with the land subject to review and approval by the City Attorney for reciprocal ingress/egress easements along the common driveway.
- V. LANDSCAPING
- A. The applicant shall enter into a two-year landscape maintenance agreement effective upon acceptance of landscaping improvements and provide an appropriate bond as required by Section 18.74.560(d) of the Design Review Ordinance. Bond amount shall be based on the assigned value of \$2.50 per square foot of area of planting and irrigation improvements. (MHMC 18.74.560)
- B. Detailed landscape planting and irrigation working drawings shall be submitted to the Community Development Department for approval prior to issuance of building permits. Landscape plans for streets and landscape easements shall be part of the improvement plan submittal.
- C. Special landscape features such as mounding, field stones, specimen size trees, meandering sidewalks and landscaping, minimum _____ feet in width, shall be required along the property _____ owner/Homeowner's Association) _____ as part of the common area improvements.
- X.D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the _____ property _____ owner/Homeowner's Association)
- IV. PARKING & VEHICULAR ACCESS
- A. The interior of any parking area shall be landscaped with planter areas measuring a minimum five feet in width, minimum inside dimension. Additional planters shall be provided at both ends of a row of spaces with the planter area length equal to the adjoining parking spaces. Such planters shall contain an 18" walk adjacent to parking stall (including curb width). (MHMC 18.74.550 C)
- B. Textured pedestrian pathways across circulation aisles shall be provided throughout the development to connect dwellings or

STANDARD CONDITIONS

Page - 6 -

E. All trees within approved landscape plans shall be of a minimum fifteen gallon size. All shrubs shall be minimum 5 gallon size unless otherwise approved by the Community Development Director.

F. A soils report shall be provided with landscape plan at the building permit stage indicating agricultural suitability and soil fertility.

G. The balance of a building site not developed as part of this project approval shall be placed in landscaping acceptable to the Planning Division.

H. A note shall be placed on the final map which shall indicate that lot(s) _____ shall be used for no purpose other than for on-site storm drainage facilities and recreational amenities. All proposed trails, private open space and associated facilities shall be permanently secured with appropriate documentation [i.e., Deeds; Easements; Covenants, Conditions and Restrictions (CC&Rs), Dedication, Homeowners Association; etc.]

I. The landscaping installed and accepted with this project shall be maintained on the site as per the approved plans. Any alteration or modification to the landscaping shall be permitted with the approval of the Director of Community Development.

prior to occupancy. Directory signs may also be provided for any multi-tenant commercial or industrial building. Location of the sign(s) shall be inferior to the project and design of the directory sign(s) shall be approved by the Planning Division and Fire Department prior to issuance of building permits.

OTHER CONDITIONS

VII.

A. It is recognized that the subject structure is proposed as speculative and the ultimate use is unknown at this time. Future commercial/industrial users of this site are subject to the City's commercial/industrial performance standards and may require use permit approval.

The applicant for land use approval has received notice that the issuance of a building permit to implement such land use action may be suspended, conditioned or denied where the City Council has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of Morgan Hill or to meet discharge standards imposed by the California Regional Water Quality Control Board.

The City of Morgan Hill currently may not have the sewage treatment capacity necessary to serve this project. Building permit issuance will not be allowed until and unless sewer capacity has been obtained for the project.

Prior to development of the subject property, the applicant shall follow the recommendations of the Northwest Information Center, Sonoma State University, regarding the investigation of potentially-significant archeological resources on the site, and shall follow recommended actions for the preservation and protection of any resources discovered during such investigation before and during construction activity.

D. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of

X.E.

A. The applicants shall obtain Planning Division approval of a sign program prior to issuance of building permits. The terms of said sign program shall be included as a disclosure in all future leasing agreements affecting this parcel.

B. The signs indicated on the plan set drawings are not approved with the subject site review application. Signs proposed for this development shall be designed in conformance with the Sign Ordinance and shall require separate application and approval by the Planning Division prior to installation of any signs.

C. Directory monument sign(s) and location map(s) shall be provided for apartment, condominium, or townhouse projects

VI. SIGNS

STANDARD CONDITIONS

Page - 7 -

S.D.O.S.-d.e. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witness fees, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.

Submit two (2) signed copies of Approval Certificate/Resolution No. _____ to the Planning Division prior to issuance of building permits.

X.F. Prior to approval of the final map (or issuance of a building permit where no map is required), the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the proposed project.

X.G. The applicant shall be subject to compliance with the mitigation measures of the project environmental assessment.

X.H. I. Reconnaissance and protocol-level burrowing owl surveys were conducted on the subject site during the peak/non-peak nesting season. Approximately _____ percent of the _____ acre site was found to be consistent with potential burrowing owl habitat. Per the City's Interim Burrowing Owl Mitigation Policy, potential habitat shall be replaced at a ratio of 1:1.0/1:0.5 (taken to mitigation). Based on this policy, _____ acres of replacement habitat is required.

1. Habitat replacement may be either on-site or off-site upon

approval of CDFG. For off-site mitigation, the applicant shall enter into a Mitigation Agreement (MA) with the California Department of Fish and Game (CDFG). Land for off-site mitigation shall be obtained within 18 months of project approval unless an extension is granted by CDFG. (Currently, the MA requires a letter-of-credit or escrow account adequate to cover costs of mitigation and provides a prescribed interval to secure the required mitigation site. If the project sponsor defaults on the MA, the security deposit is remitted to CDFG for their use in securing a site. CDFG currently estimates that \$10,000 per acre, \$20,000 for initial site protection and enhancement, \$40,000 to establish an endowment to fund long-term site management, is adequate to fulfill off-site mitigation requirements).

2. After project approval, in addition to the habitat survey, the applicant shall conduct a preconstruction survey to avoid the take of individual burrowing owls. The preconstruction survey shall be conducted not more than 30 days prior to construction to assure take avoidance of burrowing owls. If owls are observed during the preconstruction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31).

- a. If there are construction activities during the breeding season, and if burrowing owls are observed on, or within 250 feet of the project site during preconstruction surveys, a 250 foot protective buffer shall be established and monitored.
- b. If preconstruction surveys are conducted during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the CDFG once mitigation has been provided (PLNG).

STANDARD CONDITIONS

Page - 8 -

HOUSING DIVISION

VII. GENERAL REQUIREMENTS

- A. Relocation assistance in the form of a list of available rental units of similar price and in the same general area shall be provided each tenant, together with a relocation allowance equal to three (3) months rent at the tenant's rate in effect at the time final approval is granted. The rental list shall be updated weekly by the applicant until residences are vacated. A copy of all assistance plans shall be forwarded to the Housing Division for approval. Payment shall be made when relocation expenses are incurred or no later than the time the tenant vacates the premises. (MHMC 15.30.050)

X B.

- The Property Owner shall enter into agreement with the City to provide at least 13% of the for sale homes for participation in a below market rate (BMR) sales program approved by the Planning Division. The BMR participation agreement shall run with the land, and the provisions thereof shall be subject to review by City Attorney prior to recordation.

The BMR participation agreement shall include the following provisions:

- Family size shall be considered when a home is offered through the BMR program. No distinction shall be made between adults and children;
- BMR units must be affordable to families at or below the county's current median income as defined by the United States Department of Housing and Urban Development;
- The monthly housing cost shall include:
 - unit purchase price
 - current lending rates
 - estimated taxes
 - estimated insurance
 - homeowner's association fee
 - other expenses as determined by the lender
- Units shall be available only to first time home buyers as defined -by the BMR program and who currently reside within the County of Santa Clara.

BMR units shall be subject to resale restrictions under individual agreements which shall be binding for a minimum of 45 years.

- C. The Property Owner shall enter into agreement with the City to provide at least ____ of the units for participation in a below market rate (BMR) rental program approved by the Planning Division. The BMR participation agreement shall run with the land, and the provisions thereof shall be subject to review by City Attorney prior to recordation.
- The BMR participation agreement shall include the following provisions:
- Family size shall be considered when a rental unit is offered through the BMR program. No distinction shall be made between adults and children;
- ____ of the BMR units upon the issuance of the certificate of occupancy must be affordable to families at very low or below the County's current median income as defined by the United States Department of Housing and Urban Development and the remaining _____ BMR units must be affordable to families at low or below the County's current median income.
 - Property Owner agrees not to convert units to condominiums for a period of twenty (30) years.
 - Tenants will be selected from the City's waiting list.
 - Property owner shall abide by the Program Guidelines incorporated herein by this reference.
- D. The project is located in the Central Commercial-Residential (CC-R) zoning district and therefore must comply with the provisions of the Downtown Replacement Housing Program (DRHP). Those provisions may require that relocation assistance and/or on-site replacement housing be provided to current or past residents of the property. The applicable provisions of the DRHP must be satisfied prior to issuance of building permits for the subject project. (MC 15.30.050; 15.330.060)
- E. Property Owner agrees to pay double the standard Housing mitigation fee.

STANDARD CONDITIONS

Page - 9 -

BUILDING DIVISION

IX. EXISTING STRUCTURES

A. Existing building(s) where an occupancy change or use occurs, shall be made to comply with current Building Code for the intended use. (**UBC 3045**)

B. Removal of existing sewage disposal facilities and connection to city services shall be required prior to final inspection. (**MHMC 13.24**)

C. Additions to structures and/or a change in occupancy of use are required to install fire sprinklers. (**MHMC 15.08.070**)

X. GRADING

A. Prior to issuance of building permits, the applicant shall provide contract documents for on-site improvements including comprehensive site grading and drainage plan. Said plan shall provide for exportation of excess soil material as necessary. (**UBC, Appendix Chapter 33**)

B. Prior to issuance of building permits, the applicant shall provide contract documents for on-site improvements including:

- 1) Comprehensive site grading and drainage plan. Said plan shall provide for exportation of excess soil material as necessary and controlled drainage of storm water away from building.

- 2) Comprehensive erosion control plan, including hydromulching or hand-seeding methods to be used in all graded or cleared areas. Said plan shall meet the minimum standards and specifications of the Loma Prieta Resource Conservation District.

- 3) All cuts and fills shall be at a 2:1 slope or less unless stabilized by a retaining wall or cribbing as approved by the City Engineer. Retaining walls that retain four feet or more measured from immediate grade shall be of concrete or masonry. (**MHMC 15.08.050**)

XI. SITE DEVELOPMENT

A. Prior to issuance of building permits, the applicant shall provide two copies of a soils (Geotechnical) engineering report prepared by a registered Civil (Geotechnical) Engineer. The report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading criteria for corrective measures, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes, per UBC Appendix Chapter 70. The report shall also include soil classification and foundation investigation as required by UBC Chapter 29. (**UBC, Appendix 33**)

B. Prior to issuance of building permits, the applicant shall provide two copies of an engineering geology report, prepared by a registered Engineer Geologist. The report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors. (**UBC Appendix Chapter 33**)

C. Record of survey required. Lot stakes to be set by registered Civil Engineer or licensed Land Surveyor prior to issuance of building permits. (**UBC 108.1**)

D. Plans for all septic tank sewer systems shall be submitted to the Santa Clara County Environmental Health Department for review and issuance of a septic tank permit. Location of the approved septic tank leach field and expansion area shall be depicted on the revised site plan as part of a final submittal. (**MHMC 13.24**)

E. **OTHER CONDITIONS**
The applicant shall have an acoustical analysis prepared by a licensed professional, specifying the manner in which interior noise levels will be reduced to the required forty-five (45)

STANDARD CONDITIONS

Page - 10 -

- dB(A). The details of noise attenuation recommended in the report will be subject to review and approval of the Chief Building Official prior to issuance of the building permit. (**UBC Appendix 1208**)
- B. Submit minimum six (6) complete sets of working drawings and specifications. Building plans shall be drawn at a minimum 1/4" scale. Minimum sheet size shall be 18" x 24". Submit minimum - six (6) complete sets of drawings for all commercial and or industrial buildings. (**UBC 106.3.3**)
- C. A demolition permit from the Building Division of the City of Morgan Hill is required prior to the demolition of any structure. All structures which are 50 years old or older must complete a 15 day posting requirement. All structures must obtain a permit from the Bay Area Air Quality Control Board prior to

- demolition. (**MHMC 15.60**)
- D. Permits for new structures or additions will require compliance with the Building Security Ordinance. Requirements such as the installation of dead bolts on doors, protection methods for windows, garage door security, commercial roof opening security, lighting at all exit doors, etc. may be required. (**MHMC 15.40**)
- E. Permits for new structures or additions to existing structures will require the installation of fire sprinklers. (**MHMC 15.08.070**)
- F. All copper tube for water piping shall have a weight of not less than type "L". (**MHMC 15.20.050**)

STANDARD CONDITIONS

Page - 11 -

PUBLIC WORK DEPARTMENT

ENGINEERING DIVISION

XII	<u>GENERAL</u>	
<input checked="" type="checkbox"/>	A. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. Should the applicant propose the use of development and/or construction standards for any improvement and/or land uses, which are different than those presently set forth in the City's codes and ordinances, such alternative standards must be presented and approved by the Director of Public Works. The applicant shall cause Standard Specifications and Standard Drawings to be prepared in a format to be approved by the Director of Public Works. (MHMPC 17.32.080)	<input checked="" type="checkbox"/> F. Enter into a Subdivision Improvement Agreement with the City of Morgan Hill to cover required improvements. (MHMPC 17.32.160)
<input checked="" type="checkbox"/>	B. The applicant shall have a Final Map prepared by a registered engineer or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be as required by the Public Works Department. (MHMPC 17.20.200)	<input checked="" type="checkbox"/> G. Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. (MHMPC 17.20.340; 17.20.350)
<input checked="" type="checkbox"/>	C. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the Director of Public Works prior to submittal of Final Map. (MHMPC Sec 17.32.080)	<input checked="" type="checkbox"/> H. The applicant shall submit a complete traffic study of the area affected by the proposed project. This study shall be subject to review and approval by the Public Works Director prior to the issuance of any City permits. All mitigating improvements outlined in the study shall be installed by the applicant at his expense. (MHMPC 17.32.090)
<input checked="" type="checkbox"/>	D. Obtain necessary encroachment permits from City of Morgan Hill/County of Santa Clara/ State of California/ Santa Clara Valley Water District, and provide guarantee covering off-site improvements. (MHMPC 12.08.040 A)	<input checked="" type="checkbox"/> I. Prior to final map approval or issuance of a building permit, the applicant shall pay $\frac{1}{2}$ the cost of an improved median on portion covering the project frontage. Said cost shall be determined by the City Engineer. (MHMPC 3.44.020)
<input checked="" type="checkbox"/>	E. Modification of existing map to show (Storm Drain System) (Pavement widths) (Curve Radius) (Existing Utilities) on _____ (MHMPC 17.20.040)	<input checked="" type="checkbox"/> J. A map for assessment district reapportionment and reassessment spread shall be prepared and submitted to the City Engineer for review, approval and City submittal to the County Assessor. Said map shall be recorded concurrent with subdivision/parcel map. (MHMPC 17.20.350)
<input checked="" type="checkbox"/>	F. Pursuant to City Ordinance 982, the subject property will have reimbursement obligation to the City for lands acquired for street purposes and streets improved should those lands/street improvements abut or be included within subject property. (MHMPC 12.02.120 B).	<input checked="" type="checkbox"/> K.
		<input checked="" type="checkbox"/> L. IMPACT FREE INCREASE-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established ten specific categories of impact fees to finance the cost of improvements

STANDARD CONDITIONS

Page - 12 -

required by new development. The City Council has chosen to implement certain fees, withhold implementation of certain fees, and stage the implementation of certain fees. City Code Chapter 3.56.050 provides for automatic annual (July 1) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. Those fees which a developer elects to defer shall be subject to the fees in effect at the time of development of a lot (issuance of building permit). The City Public Works Department maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours.

STREET IMPROVEMENTS

XIII. A. The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with both the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the Director of Public Works. All street improvements shall be constructed to the satisfaction of the Director of Public Works. The timing of the improvements will be determined by the City. (MHM 17.32.060)

XIV. B. Installation and dedication of street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting on East Main Ave. in conformance with City of Morgan Hill requirements. (MHM 17.32.060)

XIV. C. Dedication of a total of 46 feet from center line of public right-of-way on Main Ave. 17.28.010

XIV. D. Dedication of the required corner cutoff at the intersection of _____ (MHM 17.28.010)

SANITARY SEWER SYSTEM

XV. A. The applicant, at his or her expense, shall have a registered civil engineer prepare a complete sewer system capacity study of the on- and off-site sewer system which will service the project (both upstream and downstream). The study shall meet the approval of the Director of Public Works. All needed improvements shall be installed by the applicant. No downstream overloading of existing sewer system will be permitted. (MHM 17.32.090)

XV. B. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on S. St. Collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. (MHM 17.32.020 C)

XV. C. All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. (MHM 13.24.080)

STORM DRAIN SYSTEM

XV. A. A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the Director of Public Works. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. (MHM 17.32.090)

XV. B. The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map. All storm drain improvements shall be constructed to the satisfaction of the Director of Public Works. (MHM 17.32.020 B)

XV. C. Collection system shall be designed to be capable of handling a year storm without local flooding. On-site detention facilities

STANDARD CONDITIONS

Page - 13 -

shall be designed to a 25-year storm capacity. Whereas, on-site retention facilities shall be designed to a 100 year storm capacity. Items of construction shall include, but not be limited to Installation of storm line extension on surface and Site subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. (MHM^C 17.32.080)

- X.D. Prior to final map approval the applicant shall complete the following to the satisfaction of the Santa Clara Valley Water District and Director of Public Works.
1. Storm drain calculations to determine detention pond sizing and operations.
 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.³
 3. Storm Water Pollution Prevention Plan.

X.E. Since the developed portion of this site encompasses more than 1 acres, a Storm Water Pollution Prevention Plan (SWPPP) will be required as a provision of the state's General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities. The SCVWD requests a copy of the SWPPP for their information (SCVWD).

F. Current Federal Emergency Management Agency Flood Insurance Maps show the site is located in Zone X, an area subject to less than 1 foot of flooding. SCVWD recommends that the lowest floor of any building be constructed a minimum of one foot above the potential depth of flooding or two feet above existing ground level to be free from flooding (SCVWD).

G. Land use for the hydrology of the PL-566 channel improvement project for this site is single family. Land use of greater intensity, as proposed, will require mitigation of the increased runoff due to development. Mitigation measures, such as a detention facility, will need to remain in place indefinitely after the PL-566 channel improvements are completed, or until a regional detention facility or additional channel improvements are constructed. Calculations for the sizing of the proposed detention facility and an analysis of the impacts in the event of a one percent flood should be provided for review of the SCVWD (SCVWD).

WATER SYSTEM

XVI.

X.A. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the Director of Public Works. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the Director of Public Works and dedicated to the City. (MHM^C 17.32.090)

X.B.

Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with District standards.

X.C.

Installation of water line extension on Site (MHM^C 3.44.010)

X.D.

Provide separate water services and meters for each lot. These are to be installed by developer. (MHM^C 17.32.020 D)

E.

Should the City determine that additional water storage capacity is required, the applicant shall pay a share of any necessary improvement costs. The timing and amount of payment (developer's proportionate share) may be based on City-wide usage) shall be determined by the Public Works Director. (MHM^C 3.44.010)

XVII.

X.A.

The owner shall dedicate all necessary utility easements. Each requirement shall be determined by the Director of Public Works, and shall be accompanied by appropriate legal descriptions. (MHM^C 17.28.010)

X.B.

The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the Director of Public Works. (MHM^C 17.28.010 E.1)

X.C.

The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading

OTHER CONDITIONS

STANDARD CONDITIONS

Page - 14 -

permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. (MHMC 17.20.380; 17.24.210)

X.D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.

X.E. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. (MHMC 17.08.090)

STANDARD CONDITIONS

Page - 15 -

OFFICE OF JOINT POWERS PRETREATMENT

XVIII. COMMERCIAL AND INDUSTRIAL BUILDINGS

- A.** Restaurants and food preparation facilities shall install grease interceptors. The type, size and location of said interceptors shall be to the approval of the Public Works Director and the Pretreatment Office.
- B.** Installation of a sewer test manhole in lieu of a property line clean-out, shall be provided for each building, in accordance with standard city specifications. (MHMPC 13.20.270)
- C.** Where a septic tank system is proposed, a copy of the approval permit from the Santa Clara County Environmental Health Department shall be filed with the Office of Joint Powers Pretreatment prior to issuance of a building permit.

STANDARD CONDITIONS

Page - 16 -

FIRE DEPARTMENT

- XIX. SITE DEVELOPMENT
- A. Required Fire Flow. Required fire flow for this project is GPM at 1000 psi residual pressure. The required fire flow is available from area water mains and fire hydrant(s) which are spaced at the required spacing. (UFC Appendix III-A)
- B. Fire Hydrant Location Identifier: Prior to project final inspection, the general contractor shall ensure that an approved ("Blue Dot") fire hydrant location identifier has been placed in the roadway, as directed by the fire department.
- C. Automatic Fire Sprinkler System Required. Buildings requiring a fire flow in excess of 2,000 GPM shall be equipped throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13, 1994 Edition. (UFC 1003.2.2 as amended by MHMC 15.44.040)
- D. Final Required Fire Flow. Required fire flow may be reduced up to 50% in buildings equipped with automatic fire sprinkler systems but, can be no less than 1,500 GPM. Therefore, the final required fire flow is 1000 GPM at 20 psi residual pressure. This flow shall be taken from any two fire hydrants, on or near the site so long as they are spaced at a minimum spacing at 250 feet. (UFC Appendix III-A, Section 5)
- E. Public Fire Hydrant(s) required. Provide 1 public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the Moraga Hill Public Works Dept. Water Company. Maximum hydrant spacing shall be 200 feet and the minimum single flow hydrant shall be 1000 GPM at 20 psi residual pressure. If fire hydrants are already in place, include civil drawings showing location of all hydrants with the building permit submittal. (UFC 903.2)
- F. Private Fire Hydrant(s) Required. Provide 1 private on-site fire hydrant(s) installed per NFPA Std. #24, at location(s) to be determined by the Fire Department. Maximum hydrant spacing shall be 100 feet and the minimum single flow hydrant shall be 1000 GPM at 20 psi residual pressure. Prior to design, the project civil engineer shall meet with the fire department water supply officer to jointly spot the hydrant locations. (UFC 903.2)
- G. Required Fire Flow Option (Single Family Dwellings). Provide required fire flow from fire hydrants spaced at a maximum of 500 feet OR provide an approved fire sprinkler system throughout all portions of the building. The fire sprinkler system shall conform to National Fire Protection Association Standard #13D, 1994 Edition, and local ordinance requirements. (UFC 903.2)
- H. Water Supply for Fire Protection (Single Family Dwelling). Provide a water tank of 500,000 Gallons capacity and one 1000 fire hydrant. Installations shall conform with Fire Department Standard Details and Specifications W-1. (UFC 903.2)
- I. Required Hydrant Installation(s). Hydrants shall be installed and spaced along the new or replacement water main installation(s) at a maximum spacing of 500 feet. Provide hydraulic calculations to show that required fire flow can be provided. (General Order 103)
- J. Private on-site Fire Service Mains and Hydrants. Installations shall conform to National Fire Protection Association Standard #24, and Fire Department Standard Details and Specifications W-2. (UFC 903.2) A separate installation permit from the Fire Department is required.
- K. Timing of Required Water Supply Installations. Prior to the commencement of combustible construction, the required Fire Hydrant and Water Supply installations shall be in place, inspected, tested and accepted by the Fire Department unless otherwise approved in writing by the Fire Marshal. Bulk

STANDARD CONDITIONS

Page - 17 -

construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for building permits may be held until installations are completed. (UFC 901.3)

- L. Location of Required Fire Protection System(s) Equipment.
Location of Fire Hydrants, Fire Sprinkler System(s) Control Valves (PIV / OS&Y), Fire Department Connections (FDC) and Fire Alarm Equipment shall be coordinated with the Fire Department and the Project Planners. (UFC 1001.7.1; 1001.8)
- M. Review of this Development proposal is limited to acceptability of site access and water supply as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.

- N. Review of these plans does not release the developer, architect, or contractor of the responsibility for the corrections of mistakes, errors or omissions contained therein.
- O. This record contains standard wording for developmental review comments. The section(s) may be copied and pasted into other documents to save time and improve accuracy. Use of a standard format and standard wording has been requested by the cities and recommended by their respective city/town attorneys. **PARTS ARE LOCATED AT 97-0001-0004.**

- P. Fire Apparatus (Engine) Access Roads Required. Prior to the commencement of combustible construction, an access roadways with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform with Fire Department Standard Details and Specifications A-1. (UFC 902.2.2)

- Q. Fire Department (Engine) Roadway Turn-around Required. Prior to the commencement of combustible construction the applicant shall provide an approved fire department engine

roadway turn-around with a minimum radius of 36 feet outside and 23 feet inside unless otherwise approved in writing by the Fire Marshal. Installations shall conform with Fire Department Standard Details and Specifications A-1. Cul-de-sac diameters shall be no less than 72 feet. (UFC 902.2.2.4)

R. Emergency Gate/Access Gate Requirements. Open gates shall not obstruct any portion of the required access roadway or driveway width. If provided, all locks shall be fire department approved. Installations shall conform with Fire Department Standard Details and Specifications G-1. (UFC 902.2.4.1)

S. Fire Lane Marking Required. Provide marking for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and Fire Department Standard Details and Specifications A-6. (UFC 901.4.2)

T. Parking Along Roadways. The required width of fire access roadways shall not be obstructed in any manner. Parking shall not be allowed along roadways less than 28 feet in width. Parking will be allowed along one side of the street for roadways 28-35 feet in width. For roadways equal to or greater than 36 feet, parking will be allowed on both sides of the roadway. Roadway widths shall be measured face to face of curb. Parking spaces are based on an 8 foot wide space. (UFC 902.2.4.1)

U. Required Plans and Permits. Plans for fire apparatus access roads and fire hydrant systems shall be submitted to the Fire Department for review and approval prior to construction. Permits are required for the installation of all Private Water Supply, Tank, and Hydrant systems and must be issued to contractors prior to the start of installation of such systems. (UFC 901.2.2.1, 902.2.2.2)

V. Required Access to Water Supply Hydrants) Unless otherwise approved in writing by the Fire Marshal prior the issuance of building permit, Portions of the structure(s) are greater than 150 feet of travel distance from the centerline of the roadway containing public fire hydrants. Provide an on-site fire hydrant OR provide an approved residential fire sprinkler system throughout all portions of the building. (UFC 903.2)

STANDARD CONDITIONS

Page - 18 -

- show how Fire Department ladder access will be provided around all buildings. Provide approved walkways on all sides of the building(s) leading from the fire access roadway to the exterior openings of the building(s). (UFC 902.3.1)
- CC. Timing of Required Roadway/Driveway Installations. Prior to the commencement of combustible construction, the required roadway/driveway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the Fire Department unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed. (UFC 901.3)
- DD. Flagged Lots. Flagged lots shall conform with all access and water supply requirements in accordance with Fire Code Article 9. Contract Fire Department for applicable means of compliance. (District Policy)
- EE. Timing of Required Driveway Installations. Prior to the commencement of combustible construction the required driveway installations shall be in place, inspected, and accepted by the Fire Department unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for building permits also may be held until installations are completed. (UFC 901.3)
- FF. Fire Apparatus (Ladder Truck) Access Roads Required. Provide access roadways with a paved all weather surface and a minimum unobstructed width of _____ feet, _____ inches, minimum clearance of 13 feet, 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%. Installations shall conform to Fire Department Standard Details and Specifications D-1. (UFC 902.2.2)
- GG. Fire Department (Engine) Driveway Turn-around Required. Provide an approved fire department engine driveway turnaround with a minimum radius of 36 feet outside and 23 feet inside. Installations shall conform with Fire Department Standard Details and Specifications D-1. (UFC 902.2.4)
- AA. Location of Required Fire Protection System(s) Equipment. Location of Fire Hydrants, Fire Sprinkler System(s) Post Indicator Valves (PIV), Fire Department Connections (FDC) and Fire Alarm Equipment shall be coordinated with the Fire Department and the Project Planners. (UFC 1001.7.1, 1008.1)
- BB. Access to Buildings/Landscaping Requirements. Landscaping shall not obstruct Fire Department ladder access to buildings. Building Permit submittals shall include a landscape drawing which reflects the location of all landscaping. The plan shall
- W. Required Access to Buildings. Portions of the structure(s) are greater than 150 feet of travel distance along an accessible travel path from an approved fire apparatus access roadway or driveway. Provide an approved fire apparatus roadway/driveway and approved turn-around OR provide an approved type residential fire sprinkler system throughout all portions of the building. (UFC 902.2.1, 902.2.2.4)
- X. Fire Department Key Box Required. The building shall be equipped with a permanently installed emergency access key lock box (Knox), conforming to Fire Department Standard Detail and Specification sheet K-1. At time of final inspection, access keys shall be provided to the fire department. (UFC 902.4)
- Y. Fire Apparatus (Engine) Access Driveway Required. Provide an access driveway with a paved all weather surface and a minimum unobstructed width of _____ feet, _____ inches, minimum clearance of 13 feet, 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%. Installations shall conform to Fire Department Standard Details and Specifications D-1. (UFC 902.2.2)
- Z. Fire Department (Engine) Driveway Turn-around Required. Provide an approved fire department engine driveway turnaround with a minimum radius of 36 feet outside and 23 feet inside. Installations shall conform with Fire Department Standard Details and Specifications D-1. (UFC 902.2.4)
- GG. Fire Ladder Truck Set Up Area(s) Option. Provide Fire Department Ladder Truck Set Up Areas with a minimum slope of 10% and vehicle loading of _____,000 pounds. (UFC 902.2.2.1)

STANDARD CONDITIONS

Page - 19 -

unobstructed width of 30 feet and minimum length of 60 feet.
Area shall support 75,000 pounds of gross vehicle weight.
Area shall be paved or other engineered surfaces may be used
with Fire Department approval. (UFC 902.2.2.1)

HH. Secondary Access Required. Provide a secondary access point.
Installation and Design of Secondary Access shall conform to
Fire Department Standard Details and Specifications A-4.
(UFC 902.2.1)

II. Bridges (Driveways). The bridge shall be designed for a live
load of 40,000 pounds as stated in Fire Department Standard
Details and Specifications D-1 and in accordance with Article
90 of the Fire Code. (UFC 902.2.2.5)

JJ. Premises Identification. Approved numbers or addresses shall
be placed on all new and existing buildings in such a position
as to be plainly visible and legible from the street or road
fronting the property. Numbers shall contrast with their
background and be a minimum of four inches in height. (UFC
901.4.4)

KK. Building Code Review. Building Code review will be
conducted upon receipt of a plans submittal and Building
Permit Application from the local building department having
jurisdiction.

LL. Hazardous Materials Compliance Review. Hazardous
Materials Compliance review is not completed in the
Development Review Process. Questions regarding Hazardous
Materials may be directed to (408)378-4010 ext. 20.

MM. Review of Street Improvement Plans for

Approved or Disapproved (as applicable). State reason for
disapproval.

NN. The proposal presented under this application is acceptable to
the Fire Department. Prior to performing any grading,
demolition, construction or building modifications, the
applicant shall make an application to, and obtain from the
Building and Fire Department all necessary permits. The
requirements or conditions, if stated above, shall be
incorporated into the project drawings submitted for Building
and Fire Department review.

OO. No Fire Department Requirements or Conditions. For the
application submitted. Subsequent submittals will be reviewed
for Fire Department compliance upon receipt.

PP. Preliminary Review Only. The requirements and conditions
stated in this review are preliminary and are intended to be
used for the purposes of project planning. An official Fire
Department review of the project will be conducted upon
receipt of a complete Building Permit Application and Plan
Submittal that clearly shows all intended grading, demolition,
construction or building modifications.

QQ. To prevent plan review and inspection delays, the Fire
Department Developmental Review Conditions contained
within this standard conditions checklist shall be restated as
“notes” on all pending and future plan submittals, and any
referenced diagrams shall be reproduced onto the future plan
submittal.

POLICE DEPARTMENT

XX. SITE DEVELOPMENT

A. The applicant shall comply with applicable provisions of the City's building security ordinance. Exterior lighting shall comply with criteria specified in the Design Review Ordinance. (MHMPC 18.74.370)

B. The common main entrance door to a multi-family residential building shall be coupled with a voice intercom and electric door controls for each living unit to monitor control of visitor access to the building's interior. There shall be no master keying of residential units.

C. On directories used in a multiple family dwelling, the residents listed shall be by alphabetical listing only and shall not correspond to numbering of dwelling unit. (MHMPC 15.40.410)

D. Where electronic security gates are provided to a development, a voice intercom or phone and electric gate control shall be provided. Gate location shall be designed to provide adequate area for turn around of vehicles.

XI. BUILDING DESIGN

A.

Building shall be pre-wired to provide a hard wire burglar alarm system. This shall include any windows or doors at ground level and including any windows capable of being reached without ladders from the building's exterior. The wire shall be laid in conduit. This condition does not include the actual alarm system, but only the pre-wiring for desired hookup at a later date.

B. All exterior transoms, glass skylights, and other openings of glass which are accessible from any surface on the premises shall be constructed of burglary-resistant glass or equally

resistant glasslike material or secured on the inside with the following protective devices:

- Iron bars of at least one-half (1/2)inch round or one (1) inch x one-quarter (1/4) inch flat steel material no more than five (5) inches apart and securely fastened; or
- Iron or steel grills of at least one-eighth (1/8) inch thickness with mesh not to exceed two (2) inches secured with non-removable type screws. (MHMPC 15.40.250)

C. All hatchway openings shall be secured with the following protective devices:

- If the hatchway is of wooden material, it shall be covered on the inside with at least sixteen (16) gauge sheet steel, or its equivalent, attached with screws.
The hatchway shall be secured from the outside with a slide bar or slide bolt with a minimum of one (1) inch throw. The use of a crossbar or padlock must be approved by the Fire Department.
Outside hinges on all hatchway openings shall be provided with non-removable pins using pin-type hinges. (MHMPC 15.40.280)

D.

All air duct or air vent openings exceeding eight (8) inches x twelve (12) inches on the roof or exterior walls of any building shall be secured by covering the same with either of the following:

- Iron bars of at least one-half (1/2)inch round or one (1) inch x one-quarter (1/4) inch flat steel material, spaced no more than five (5) inches apart and securely fastened; or
- Iron or steel grills of at least one-eighth (1/8) inch thickness with mesh not to exceed two (2) inches and secured with non-removable type screws.
If the barrier is on the outside, it shall be secured with galvanized round-head through bolts of at least three-eighths (3/8) inch diameter on the outside. (MHMPC 15.40.290)

PACIFIC GAS & ELECTRIC (PG&E)

XXII. UTILITY ACCESS

- X.A. Development plans shall provide for unrestricted utility access and avoid encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities. Examples of activities which could have an impact on PG&E facilities include permanent/temporary changes in grade over or under the facilities; construction of structures within or adjacent to PG&E easements; and planting of certain types of vegetation over or underneath gas and electric facilities respectively. Developers shall be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate the proposed development (PG&E).

XXIII. OTHER CONDITIONS:

- X.A. Project shall comply with all Measure C commitments.
- X.B. Prior to final map approval, site, architectural and landscape plans shall be reviewed and approved by the Architectural and Site Review Board. (Planning)
- X.C. Install full city standard street improvements across lot frontage on E. Main Ave. Street improvements shall include, but not limited to curb and gutter sidewalk, street lights, street paving, etc. (Public Works)
- X.D. Provide a separate landscape water meter for common areas. Landscape water service shall be equipped with a backflow preventer per city standard detail W-3. (Public Works)

X.E.

Dedicate and construct all public streets. New streets shall adjoin existing streets per City standards, including grind and overlay to create keyed joint. (Public Works)

X.F.

Calculations supporting ponding basin design shall be submitted to Public Works for review. (Public Works)

X.G.

Obtain encroachment permit prior to doing any work in the City's right of way or in connection with the City's utility system. (Public Works)

X.H.

Future exterior noise levels in the rear yards of lot 4 and 5 adjacent to E. Main Ave. shall be reduced to acceptable levels with the construction of a solid barrier. Openings or gaps between barrier materials or the ground decrease the reduction provided by the noise barrier. Suitable material for barrier construction should have a minimum surface weight of three pounds per square foot (i.e. one-inch thick wood, masonry block, concrete or metal). A six-foot noise barrier (relative to the pad elevation) would provide approximately 5 db of noise reduction for traffic noise along E. Main Ave. The final detailed design of the heights and limits of this barrier shall be by the Architectural and Site Review Board prior to the issuance of a grading permit. (Planning)

X.I.

Units adjacent to E. Main Ave. or the City water pump shall not have interior noise levels higher than 45 dBA. Additional mitigations may be needed. Mitigation will include, but not be limited to, sound rated windows and doors, special wall constructions, acoustical sealants, weather-stripping, etc. The buildings will also include forced air mechanical units. (Planning)

OTHER CONDITIONS CONTINUED:

J. Building plans will be reviewed by an acoustical specialist to identify any necessary measures that would be required to maintain interior average (Ldn) and maximum noise at acceptable levels prior to issuance of building permits. (Planning)

K. Prior to final map approval, the developer must receive approval from the Post Office for the type and location of the mailbox(es). The locations shall be shown on the project improvement plans. (Planning)

L. A pair of moderate/BMR units facing E. Main shall be moved to either lot 1 or 35 and the lot sizes adjusted according to Staff review and approval. (Planning)

M. Pollution Prevention Plan (SWPPP) will be required as a provision of the State's General National Pollutant Discharge Elimination System storm water permit for construction activities. A copy of the WDID identification number, a SWPPP and a WDID are required prior to the issuance of a grading permit. (Public Works)

N. Public Works fees are required for this project and must be paid prior to the issuance of Building Permit. (Public Works)

O. The developed portion of this site encompasses more than 1 acre, therefore a Notice of Intent must be filed with the State Water Resources Control Board (SWRCB) and a Storm Water

P. To prevent pollutions from construction activities, including sediment, from reaching East Little Lagas Creek, following the Santa Clara Urban Runoff Pollution Prevention Program's recommended Best Management Practices (BMP) for construction activities, as contained in "Blueprint for a Clean Bay," and the California Storm Water Construction BMP Handbook" (SCVWD)

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION DA-05-04 FOR APPLICATION MP 04-19: E Main-Thrust (APN 726-16- 028)

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, awarded 26 building allotments for application MP 04-19: E Main-Thrust; and

WHEREAS, said development agreement request was considered by the Planning Commission at their meeting of June 13, 2006, at which time the Planning Commission recommended approval of development agreement application DA 05-04: E Main-Marrad.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT. The Planning Commission hereby recommends to the City Council, adoption of the Development Agreement DA 05-04: Main-Marrad attached to this Resolution as Exhibit A.

**PASSED AND ADOPTED THIS 13th DAY OF JUNE 2006, AT A REGULAR MEETING OF
THE MORGAN HILL PLANNING COMMISSION BY THE FOLLOWING VOTE:**

**AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:**

ATTEST:

APPROVED:

**FRANCES O. SMITH
Deputy City Clerk**

RALPH LYLE, Chair

EXHIBIT A

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 6103

Recorded at the request of
and when recorded mail to:

City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037

RESIDENTIAL DEVELOPMENT AGREEMENT

This Agreement entered into this _____ day of _____, 2006, by
and between **Thrust Properties** under the Agreement, ("Property Owner") and the CITY OF
MORGAN HILL, a municipal corporation organized and existing under the laws of the State of
California (the "City").

RECITALS

This Agreement predicated upon the following facts:

A. Government Code Sections 65864-65869.5 authorize the City of Morgan Hill to
enter into binding development agreements with persons having legal or equitable interests in
real property for the development of such property;

B. Under Section 65865, the City of Morgan Hill has adopted rules and regulations
establishing procedures and requirements for consideration of Development Agreements as
contained in Title 18, Chapter 18.80 of the City of Morgan Hill Municipal Code;

C. The parties hereto desire to enter into a Development Agreement and proceedings
have been taken in accordance with the City's rules and regulations;

D. The City of Morgan Hill has found that the Development Agreement is consistent
with the General Plan and commitments made through the Residential Development Control
System of the City of Morgan Hill (Title 18, Chapter 18.78 of the Municipal Code);

E. In light of the substantial commitments required to be made by Property Owner
and in exchange for the consideration to be provided to the City by Property Owner as set forth
herein, the City desires to give Property Owner assurance that Property Owner can proceed with
the project subject to the existing official policies, rules and regulations for the term of this
Development Agreement;

F. On _____, 2006, the City Council of the City of Morgan Hill adopted
Ordinance No. _____, New Series approving the Development Agreement with the Property
Owner, and the Ordinance thereafter took effect on _____, 2006.

NOW, THEREFORE, the parties agree:

1. **Definitions.** In this Agreement, unless the context otherwise requires:

- (a) "City" is the City of Morgan Hill.
- (b) "Project" is that portion of the development awarded building allotments as part of the Residential Development Control System by the City of Morgan Hill.
- (c) "Property Owner" means the party having a legal or equitable interest in the real property as described in paragraph 3 below and includes the Property Owner's successor in interest.
- (d) "Real Property" is the real property referred to in Paragraph 3 below.

2. **Exhibits.** The following documents are referred to in this Agreement, attached and made a part by this reference:

- Exhibit "A" - Development Allotment Evaluation
- Exhibit "B" - Development Review and Approval Schedule
- Exhibit "C" - Legal Description of Real Property

In the event there is any conflict between this Development Agreement and any of the Exhibits referred to above, this Development Agreement shall be controlling and superseding.

3. **Description of Real Property.** The real property which is subject to this Agreement is described in Exhibit "C".

4. **Interest of Property Owner.** Property Owner represents that he has a legal or equitable interest in the real property.

5. **Assignment.** The right of the Property Owner under this agreement may not be transferred or assigned unless the written consent of the City is first obtained which consent shall not be unreasonably withheld. The Property Owner shall provide the City with names, address, and phone numbers of the party to whom the property is to be transferred and Property Owner shall arrange an introductory meeting between the new owner, or his agent, and City Staff to facilitate consent of the City.

6. **Recordation of Development Agreement.** No later than ten (10) days after the City enters into this Agreement, the Clerk of the City shall record an executed copy of this Agreement in the Official Records of the County of Santa Clara. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, successors in interest to the parties to this Agreement; provided, however, that this Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee or any other successor of Property Owner acquiring a completed residential unit comprising all or part of the Project.

7. **Relationship of Parties.** Property Owner and the City agree that each is not the agent of the other for purposes of this Agreement or the performance hereunder, and Property Owner is an independent contractor of the City.

8. City's Approval Proceedings for Project. On March 1, 2005 the City of Morgan Hill approved a development plan for the real property as part of its Residential Control System Review. This approval is described in proceedings designated File No. MC-04-19: E.Main-Thrust on file in the office of Community Development to which reference is made for further particulars. The development plan provides for the development of the property as follows:

Construction of 27 single family detached and 8 single family attached as approved by the City of Morgan Hill Planning Commission.

9. Changes in Project.

(a) No substantial change, modification, revision or alteration may be made in the approved development plan without review and approval by those agencies of the City approving the plan in the first instance, which approval shall not be unreasonably withheld. No minor changes may be made in the approved development plan without review and approval by the Director of Community Development of the City, or similar representation if the Director is absent or the position is terminated, which approval shall not be unreasonably withheld.

(b) Any change specified herein and approved by this Development Agreement shall be deemed to be an allowable and approved modification to the Development Plan.

(c) In the event an application to change, modify, revise or alter, the development plan is presented to the Director of Community Development or applicable agencies of the City for review and approval, the schedule provided in Exhibit "B" shall be extended for a reasonable period of time as agreed to by the parties hereto to accommodate the review and approval process for such application.

(d) In the event the developer is unable to secure construction liability insurance because the project contains attached dwellings, the developer may convert the attached units into zero lot line or reduced setback detached units, subject to the review and approval of the Architectural Review Board. A zero lot line or reduced setback detached unit is defined as a dwelling physically separated from an adjacent dwelling on a separate lot of record but architecturally connected by a design element to give the appearance of attachment. In order to qualify for zero lot line or reduced setback detached units, evidence shall be provided to the City that the developer is unable to obtain construction liability insurance due specifically to the attached dwellings. This provision is contingent upon City Council approval of amendments to Title 18 of the Morgan Hill Municipal Code (the Zoning Code) to allow zero lot line or reduced setback detached units.

10. Time for Construction and Completion of Project.

(a) Securing Building Permits and Beginning Construction. Unless excused from performance as provided in paragraph 27 hereof, Property Owner agrees to secure building permits by (see Exhibit "B") and to begin construction of the Project in accordance with the time requirements set forth in the Uniform Building Code and the City's Residential Development Control System (see Exhibit "B") as these exist on the date of execution of this Agreement. In the event Property Owner fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Residential Development Control System, the City, after holding a properly noticed hearing, may rescind all or part of the allotments awarded to the Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

(b) Progress Reports Until Construction of Project is Complete. Property Owner shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of determining the amount of any bond to secure performance under said contracts, Property Owner agrees to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 25% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 50% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 75% of the total number of units, and after all public and private improvements have been completed to the City's satisfaction, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units, this Development Agreement shall be deemed terminated as to the entire project.

11. Hold Harmless. Property Owner agrees to defend and hold the City and its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury including death or claims for property damage which may arise as a result of the construction of the project by the Property Owner or his contractor, subcontractor, agent, employee or other person acting within the course and scope of the authority of Property Owner.

Property Owner further agrees to hold the City and its officers, agents, employees, and representatives harmless from liability for damages or claims for damages suffered or alleged to have been suffered as a result of the preparation, supply, and/or approval of the plans and specifications for the project by the City or its officers, agents, employees or representatives.

Nothing herein shall require or obligate Property Owner to defend or hold the City and/or its officers, agents, employees and representatives harmless from or against any damages, claims, injuries, death or liability resulting from negligent or fraudulent acts of the City or its officers, agents, employees or representatives.

12. Insurance. Property Owner shall not commence actual construction under this Agreement until Property Owner has obtained insurance as described herein and received the approval of the City Attorney of Morgan Hill as to form and carrier, which approval shall not be unreasonably withheld. Property Owner agrees to maintain such insurance from a date beginning with the actual commencement of construction of the Project and ending with the termination of the Agreement as defined in Paragraph 20.

(a) Compensation Insurance. Property Owner shall maintain Worker's Compensation Insurance for all persons employed by Property Owner at the site of the Project, not including the contractor and or subcontractors on the site. Property Owner shall require each contractor and subcontractor similarly to provide Worker's Compensation Insurance for themselves and their respective employees. Property Owner agrees to indemnify the City for damage resulting from its failure to obtain and maintain such insurance and/or to require each contractor or subcontractor to provide such insurance as stated herein.

(b) Public Liability and Property Damage Insurance. Property Owner agrees to carry and maintain public liability insurance against claims for bodily injury, death or property damage to afford protection in the combined single limit of not less than One Million Dollars (\$1,000,000).

(c) Additional Insured. Property Owner shall obtain an additional insured endorsement to the Property Owner's public liability and property damage insurance policy naming the City, its elective and appointive boards, commissions, agents, and employees, as additional insured.

13. Cancellation of Insurance. On or before the commencement of actual construction of the Project, Property Owner shall furnish the City satisfactory evidence that the insurance carrier selected by the Property Owner and approved by the City will give the City of Morgan Hill at least ten (10) days prior written notice of cancellation or reduction in coverage of a policy.

14. Specific Restrictions on Development of Real Property. Notwithstanding the provisions of land use regulations otherwise applicable to the real property by virtue of its land use designation of Single Family medium and zoning classification of R-1 7,000/RPD, the following specific conditions of the Residential Development Control System building allotment approval govern the use of the property and control over provisions in conflict with them, whether lots are developed by the Property Owner or by subsequent property owners:

(a) Permitted uses of the property are limited to the following:

The Tentative map, Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(b) Maximum density (intensity of use) is:

That shown on the Vesting Tentative map and Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(c) Maximum height for each proposed building is:

That height shown on the Architectural plans as approved by the City of Morgan Hill under Site and Architectural Review Process.

(d) Landscaping and recreational amenities, as shown on Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(e) All public improvements shall be installed by the Property Owner along property frontages to the satisfaction of the Public Works Department consistent with the Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(f) All architectural features and materials for all structures shall be constructed as shown on the Architectural plans as approved by the Site and Architectural Review Process.

(g) Property Owner agrees to any other reasonable condition of approval resulting from subdivision, site review and environmental review, which conditions are on file with the City.

- (h) development:
- (i) Property Owner agrees to pay the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998.
- (ii) Property owner will install the following off-site pedestrian safety improvements or traffic safety improvements near a MHUSD school:
- Provide off-site safety improvements valued at \$3,300 per unit based on the Safe Walking Route to School Study or; Any other improvements equal to \$3,300 per unit to be determined by the Morgan Hill Unified School District.

- (i) Property Owner agrees to include the following Open Space improvements in the development:
- (i) All parks and open space within the project will be maintained by a neighborhood homeowners association.
- (ii) Open space buffer area along the project frontage will be 10 ft. in excess of standard
- (iii) Project will provide a 7 ft wide path through the proposed open space to connect to the existing public pathway at the south boundary. This will complete a continuing pathway that extends to Diana Park.
- (iv) The project shall purchase transferable development credits at a ratio of one TDC for every 25 units. The overall project contains 35 units and is required to purchase a total of 1.4 TDC's. The per unit TDC payment shall be collected on a per unit basis at the time of building permit issuance. Building permits will not be granted unless this provision has been complied with to the satisfaction of the City Council.

- (j) in the development:
- Property Owner agrees to include the following Public Facility features
- (i) Project will grid water main between Bel Air Way and Calle Asta.
- (ii) The project drainage shall be consistent with the City's storm drain system.
- (iii) Project commits to install public facilities on/adjacent to project site, or as directed/designated by the City at a cost of at least \$4,400, over and above other commitments, per allocated unit.
- Obtain street dedication and install full street improvement including under grounding of existing overhead utilities on 2 adjoining properties located on City owned well site and the Ross property.
 - Install lighting, landscaping and irrigation along existing pathway from project boundary to Diana park, all on City owned property.

- Widen existing pavement along north side of Main Avenue 7 feet to provide bicycle lane and pedestrian Pathway to Live Oak High School.
- (iv) Project storm drain lines that are to be maintained by the city will be constructed entirely within the paved area of the street (curb to curb), or in a location acceptable to the Director of Public Works. Existing storm drain in Belle Estates Park will be connected up to Belle Air Way as it was originally intended. HOA will maintain storm drains in the park detention pond.
- (v) Applicant will contribute \$1,100 per unit to the off-site storm drain improvement fund in addition to payment of standard fees.
- (vi) Applicant will contribute \$1,100 per unit to the Capital Improvements Program Fund

(k) The Property Owner agrees to provide the following **Park and Recreation** improvements:

- (i) The project will install the following pedestrian and bicycle improvements beyond the project frontage:
 - A Class I bicycle pathway to be installed along the East Main Avenue frontage. If the City, at its discretion, prefers Class II bike lanes, the developer agrees to provide one-quarter mile of Class II bike lane improvements along Butterfield Blvd. for every 10 units.
- (ii) In addition to payment of standard park fees, the applicant will pay the lesser of double the required in lieu park fees up to \$ 3300 per unit
- (iii) The project will provide park/open space area 50 percent in excess of the minimum required in section 17.28 of the Municipal Code.
- (iv) Each project phases shall provide the following park amenities within the proposed park(s):
 - Phase I: Dedicate and landscape the 1 acre park parcel and dedicate landscape the 6,600 sq. ft. parcel leading to Main.
 - Phase II: No improvements required.
 - Phase III: Install a ½ basket ball court, shade structure or gazebo and a tot lot (age appropriate play equipment/min 3 activities) within the one acre park.

(l) Property Owner agrees to include the following Housing Types & Housing Needs in the development:

(i) Project shall provide the following proportional share of housing types:

Phase I (13-units)

- 1 Low income BMR: 4 bedroom, 2.5 bath and approx.1367 sq. ft.
- 2 Median income BMR: 4 bedroom, 2.5 bath and approx.1367 sq. ft.
- 2 Moderate Rate*: 4 bedroom, 2.5 bath and approx. 1444 sq. ft.
- 2 Single story units
 - 4 Units (30%) shall have porches, balconies, for any area viewed from the public right-of-way or multi-unit courtyards interior to the project
 - 7 Units (50%) shall have side-loading, detached, rear garages, or two car garages with tandem parking space. to accommodate a third vehicle inside the garage.

Phase II (5-units)

- 0 Moderate Rate*: 4 bedroom, 2.5 bath and approx. 1444 sq. ft.
- 0 Low income BMR:4 bedroom, 2.5 bath and approx.1367 sq. ft.
- 0 Median income BMR:4 bedroom, 2.5 bath and approx.1367 sq. ft.
- 0 Single story units
 - 2 Units (30%) shall have porches, balconies, for any area viewed from the public right-of-way or multi-unit courtyards interior to the project
 - 3 Units (50%) shall have side-loading, detached, rear garages, or two car garages with tandem parking space. to accommodate a third vehicle inside the garage.

Phase III (8-units)

- 2 Moderate Rate*: 4 bedroom, 2.5 bath and approx. 1444 sq. ft.
- 1 Low income BMR:4 bedroom, 2.5 bath and approx.1367 sq. ft.
- 1 Median income BMR:4 bedroom, 2.5 bath and approx.1367 sq. ft.
- 1 Single story unit
 - 2 Units (30%) shall have porches, balconies, for any area viewed from the public right-of-way or multi-unit courtyards interior to the project
 - 3 Units (50%) shall have side-loading, detached, rear garages, or two car garages with tandem parking space. to accommodate a third vehicle inside the garage.

(ii) Over and above the BMR units, the project provides 4 additional 10% attached units. [R-1 project]

(iii) The Property Owner shall provide at least Five (5) of the units for participation in a Below Market Rate (BMR) for sale program approved by the Community Development Department. The BMR unit(s) shall be approved by the City of Morgan Hill Planning Commission and Site and Architectural Review process. Three (3) of the BMR units shall be under construction and the framing inspection passed prior to the issuance of the fifteenth (15) building permit and the remaining two 2 BMR units shall be under construction and framing inspection (as defined in the UBC) passed prior to the issuance of the 27th building permit.

(iv) Below Market Rate (BMR) purchasers shall be treated in the same manner as purchasers of non-BMR units. Developer, including Developer's company, employees, and/or agents) agrees to assist BMR purchasers with all phases of the sales transaction, including, but not limited to, the preparation of any and all documents necessary to complete the sale and representation by a licensed real estate agent/broker.

(v) Property Owner will provide the buyer(s) of the BMR unit(s) the same option to upgrade the materials in the BMR home as a market rate buyers would in the market rate homes.

(vi) Property Owner will provide the same level of customer service to the BMR buyer as the market rate buyer.

(vii) The Below Market Rate (BMR) Program Guidelines are hereby incorporated herein in full by this reference.

(viii) Exterior trim entry door hardware, and finish to the same standard as the Market Rate.

(ix) Minimum standards for equipment, fixtures, appliances and finishes have been established for the BMR units. All items installed shall be of good quality. Good quality shall be deemed as entry level but generally not the lowest level of product offered for that application. All products shall offer durability, reliability and maintain a quality appearance and function that is standard to most other median priced homes in the area. The below listed items must be installed as a basic feature of each BMR home.

(x) Minimum Interior standard finishes will be as follows:

- All closets shall have doors
- Interior doors to be raised panel type or same as market rate
- Door hardware to be brass finish or the equivalent
- Appliances shall be major brand name
- Microwave with an exhaust vent shall be installed over the range.
- Kitchen counters shall be white ceramic tile
- Kitchen cabinets shall be stained wood with white melamine interiors
- Units will be roughed in for AC including electrical and line set.
- Basic alarm system to secure all accessible openings to the home
- Carpet in bedrooms, hallways, family rooms
- Linoleum or tile in entry, bathrooms kitchens
- Laminate flooring may be substituted for carpet or linoleum
- Electric garage door opener

(m) Property Owner agrees to include the following **Quality of Construction** features in the development:

- (i) All homes will have EPA "Energy Star" labeled windows with low-e coatings and vinyl or metal frames
- (ii) All units shall have R38 insulation in attic spaces.
- (iii) All units shall achieve a minimum of 15% energy usage reduction to be shown per T24 Energy Compliance calculations at time of building permit submittal.
- (iv) Installation of a high efficiency gas furnace of 90 percent efficiency rating or greater in all dwelling units.
- (v) All two story units below 3000 square feet shall have dual zoned heating systems
- (vi) Provides two separately zoned high-efficiency heating systems in units over 3000 square feet, and units less than 3000 square feet whose floor plans allow effective dual-zoning.
- (vii) Installation of air conditioning units with high efficiency condensing unit with a SEER rating of 12 or higher.
- (viii) Installation of a HERS (Home Energy Rating System) certified heating and air conditioning (HVAC) system with all duct work tested and certified to achieve a minimum 3 percent savings in the home energy budget.
- (ix) Installation of cast-iron drainage pipe and piping insulation between floors for sound reduction of plumbing.
- (x) Installation of future ready wiring concepts such as home running phone lines from all habitable rooms directly to main phone box rather than looping using RJ6 for television/video and high speed computer access, and CAT6 or equivalent for telephone lines.
- (xi) Class A " concrete roof tile with color through tiles.
- (xii) Recirculating hot water system with demand pumping.
- (xiii) All sub-floors to be 1 1/8 inch CDX T&G plywood (3/4 inch plywood UBC min.); glued and screwed.
- (xiv) All floor systems to be framed with TJI or equal floor joists.
- (xv) All units to be pre-plumbed at dryer for gas along with 220v outlet. All homes to be wrapped with 3/8 inch CDX plywood sheathing on all exterior walls (not required by UBC).
- (xvi) Use at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc.
- (xvii) Each standard trim and base color must represent no more than 15 percent of the project.

- (n) improvements: The Property Owner agrees to provide the following **Circulation**
- (i) Applicant agrees to install full street widening improvements on said properties located on E. Main Avenue at a cost of \$4,485.00/ unit. The cost of the offered dedication and public improvements shall be equal to or greater than \$1100 per unit.
 - (ii) The project will install a landscape island and entry statement at the project entry on Calle Asta.
- (o) improvements: The Property Owner agrees to provide the following **Safety and Security**
- (i) Provides fire escape ladders for upper floor bedrooms and one mounted fire extinguisher (rated 2A10BC) for up to the first 1,500 square feet of floor space, and one additional extinguisher for each additional 1,500 square feet of floor space or fraction thereof.
 - (ii) Provides a first aid kit with a poison control document to be installed in the kitchen area of the home.
 - (iii) Provide outdoor lighting to meet all police department specifications.
 - (iv) Install illuminated address numbers for each unit and painted reflective curb numbers where possible.
 - (v) Noncombustible is used on at least 50 percent of the total units and comprises at least 75 percent of the siding of an individual unit.
 - (vi) Installation of an intrusion, fire alarm and heat detector system, monitored by a central station, or to include auto dialer which meets City ordinance. The developer will include a one-year monitoring contract with the home purchase and commits to deliver to the homeowner a City specific responsible listing card that the City Police Department can keep on file.)
 - (vii) Provides residential fire sprinkler systems according to NFPA Chapter 13D specifications. Will provide and install an intrusion, fire alarm and heat detector system to be monitored by a central station
 - (viii) Neighborhood Emergency Preparedness Program administered through a homeowners association or central property management.
 - (ix) Hardwired carbon monoxide detection device or devices with battery backup. The installation of the devices are to be located per manufacturer's requirement with at least one detector per floor of the residence.

(x) The developer shall include provisions in the Convents, Conditions and Restrictions (CC&R's) of the Homeowner's Association which directs a Board representative to the City of Morgan Hill Police Department's Community Service Officer to enact a neighborhood watch program to be established as part of the first phase of the development. For rental projects, neighborhood watch programs shall be administered through a central property management.

- (p) improvements:
- The Property Owner agrees to provide the following Landscaping
- (i) Twenty-four inch box-size trees from a city approved list, with a minimum height of nine feet and a spread of three to four feet. The box-size trees will be provided within the development at a ratio of one box-size tree per ten trees provided with the landscape area to be installed by the developer. The one box size tree per ten trees calculation does not include street trees.
 - (ii) Varied front yard landscaping plans are installed by the developer.
 - (iii) Deciduous trees will be planted along the south facing side of homes or buildings.
 - (iv) All street trees are twenty-four inch box trees from the city approved list.
 - (v) Project provides street trees consistent with the Street Tree Master Plan that addresses tree selection, location of trees on each lot, proper tree spacing, and preservation of any existing trees.
 - (vi) All common area, open space and front yard landscaping shall meet the provision of Ordinance 1751 (Water Conserving Landscapes).
 - (vii) Drought tolerant grasses are used for lawn areas and no more than twenty-five percent of the landscape area is covered with lawn. The twenty-five percent lawn coverage calculation is exclusive of landscape area within parks.
 - (viii) Automatic irrigation systems utilize separate valves and circuits for trees; shrubs and ground covers; and lawn areas. Minimum of three separate valves required. A separate valve shall be provided for the following areas: front lawn, rear lawn, and for trees, shrubs and groundcover (combined) where viable. If trees, shrubs, and groundcover cannot be combined under 1 valve, a separate valve for trees shall be provided, resulting in a minimum of 4 separate valves required. Water conserving irrigation system is also used within the development, i.e., drip irrigation.

(ix) The landscape to be installed by the developer will include hardscape coverage such as decorative paving, wood decking, decorative stone and similar non-irrigated areas on at least fifteen percent of the landscape area. Pedestrian walkways across circulation aisles are not included in this item.

(x) For at least 75% of all plant material, uses water conserving plants contained on the Selected Plant List, Appendix A of the City Water Conservation Landscape Guide.

(xi) Project provides a separate water source (e.g., well, import or recycled water) to irrigate common area landscape areas and front yard areas that are maintained by a homeowners association.

(xii) Landscaping shall be installed on all areas visible from public and private rights-of-way.

(q) The Property Owner agrees to provide the following Natural and Environmental improvements:

(i) Minimal grading is required which is considered a fill or excavation of less than two feet in depth (three feet is acceptable for detention ponds).

(ii) Preserves existing trees and natural settings by locating park or common open space areas around significant trees.

(iii) Open space/landscape area in excess of minimum requirement minimizing the impact of soundwall along E. Main Avenue.

(iv) Dry wall is source separated and recycled.

(v) Wood waste is source separated for recycling or composting.

(vi) Cardboard containers and boxes are source separated and recycled.

(r) The Property Owner agrees to provide the following Livable Community improvements:

(i) Provides on-site walkways and bike paths within open space area leading to Diana Park. Pathways reach most of development and connect to Main Ave.

(ii) Provides widening, including sidewalk, along north side of E. Main Ave. to Live Oak High School. The cost of the sidewalk improvements shall be equal to or greater than \$1100 per unit.

(s) The Property Owner shall record constructive notice on the Final Parcel Map for the development that each lot is subject to the requirements of this Development Agreement, and that commitments under the Agreement which the City has permitted the Property Owner to delay must be fulfilled by the next subsequent property owners.

(t) The project shall provide the following information, by address for each unit, to the Community Development Department:

- (i) Date of sale
- (ii) The number of bedrooms
- (iii) The final sales price

This information shall be reported on an annual basis for the calendar year and is due to the City by March 30 of the following year for every year until the project is completed and all units are sold.

15. Effect of Agreement on Land Use Regulations.

(a) Unless otherwise provided herein or by the provisions of the Residential Development Control System, the rules, regulations and official policies governing permitted uses of the real property, governing density and governing the design, improvement and construction standards and specifications applicable to development of the real property are those rules, regulations and official policies, including without limitation building code requirements, in force at the time of the execution of this Agreement.

(b) This Agreement does not prevent the City, in subsequent actions applicable to the real property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the real property as set forth in Paragraph 14 and in effect at the time of the execution of this Agreement. Any rules, regulations or policies enacted by the City subsequent to the execution of this Agreement which are in conflict with those rules, regulations and policies in effect at the time of the execution of this Agreement or in conflict with the terms of this Agreement shall not be applied to the Project.

(c) The City shall be entitled to impose development fees in effect at the time a vested tentative map or other equivalent map is approved, rather than those in effect as of the date of this Agreement. The City shall be entitled to apply building standards in effect at the time the building permits are actually issued, rather than those in effect as of the date of this Agreement.

(d) This Agreement does not prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations and policies.

(e) Nothing contained herein will give Property Owner a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

16. State or Federal Law. In the event that state or federal laws, or regulation, enacted after this Agreement have been entered into, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

17. Periodic Review.

(a) The City shall review this Agreement at least at four times per year and on a schedule to assure compliance with the Residential Development Control System, at which time the Property Owner is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Property Owner has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

18. Amendment or cancellation of Agreement. This Agreement may be amended, or canceled in whole or in part, by mutual consent of the parties and in the manner provided for in California Government Code Section 65868, 65867 and 65867.5.

19. Enforcement. Unless amended or canceled pursuant to Paragraph 18 hereof, this Agreement shall be enforceable by any party to it notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City, which alters or amends the rules, regulations or policies specified in Paragraph 14 and 15.

20. Termination of Agreement. This Agreement shall terminate upon the occurrence of one or more of the following events or conditions:

(a) The City finds and determines, in accordance with the terms of Paragraph 17, that Property Owner has not reasonably complied in good faith with the terms of this Agreement and the City elects to terminate this Agreement;

(b) Property Owner gives the City written notice of its decision to terminate this Agreement;

(c) Property Owner and the City mutually consent to termination of this Agreement in accordance with the terms of Paragraph 18; or

(d) Issuance of the Certificate of Completion referred to in Paragraph 10(d), provided that this Agreement shall only terminate with respect to that part of the Project to which the Certificate of Completion applies.

21. Default by Property Owner. Property Owner shall be in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) If a written warranty, representation or statement was made or furnished by Property Owner to the City with respect to this Agreement which was known or should have been known to be false in any material respect when it was initially made;

(b) A finding and determination by the City of Morgan Hill made following a periodic review under the procedure provided for in Government Code Section 65856.1 that upon the basis of substantial evidence, the Property Owner has not complied in good faith with one or more of the material terms or conditions of this Agreement.

22. Default by the City of Morgan Hill. The City is in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) The City, or its boards, commissions, agencies, agents or employees, unreasonably fails or refuses to take action on proposals, applications or submittal presented by the Property Owner within a reasonable time after receipt of such proposals, applications or submittal.

(b) The City unreasonably fails or refuses to perform any obligation owed by it under this Agreement.

(c) The City imposes upon Property Owner rules, regulations or official policies governing permitted uses, density, maximum height and size of proposed structures and reservations (dedications) of land for public purposes of the Property or the design, improvement and construction standards and specifications applicable to the development of the Property, which are not the same in all material respects as those rules, regulations and official policies in effect at the time of the execution of this Development Agreement and which adversely and materially affect the Project.

23. Cure of Default.

(a) This section shall govern cure of defaults except to the extent to which it may be in conflict with the Residential Development Control System. Upon the occurrence of an event of default by either party, the party not in default (the "non-defaulting party") shall give the party in default (the "defaulting party") written notice of the default. The defaulting party shall have thirty (30) calendar days from the date of notice (subject to subsection (b) below) to cure the default if such default is curable within thirty (30) days. If such default is so cured, then the parties need not take any further action except that the defaulting party may require the non-defaulting party to give written notice that the default has been adequately cured.

(b) Should the default not be cured within thirty (30) calendar days from the date of notice, or should the default be of a nature which cannot be reasonably cured within such thirty (30) day period and the defaulting party has failed to commence within said thirty (30) day period and thereafter diligently prosecute the cure, the non-defaulting party may then take any legal or equitable action to enforce its rights under this Development Agreement.

24. Remedies.

(a) In the event Property Owner defaults under the terms of this Agreement, the City, after holding a properly noticed hearing may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments or may terminate or modify this Development Agreement.

(b) In the event the City defaults under the terms of this Agreement, in no event shall the Property Owner be entitled to any of the following:

- (i) Punitive damages;
- (ii) Damages for lost profits;
- (iii) Damages for expenditures or costs incurred to the date of this Agreement.

(c) The parties hereby explicitly acknowledge and agree that remedies for any issue or dispute arising out of the performance or non-performance of this Agreement are limited to those provided under actions for mandamus, declaratory relief and/or specific performance. The parties further agree that in no event shall any party shall maintain any action, claim or prayer for damages pursuant to any alleged federal or state constitutional or statutory claim, or incurred as a result of an alleged breach of this Agreement.

25. Attorneys Fees and Costs. If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

26. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid addressed as follows:

City of Morgan Hill:

Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

With a copy to:

City Clerk
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

Property Owner:

Thrust Properties
c/o Marrad Group
P.O. Box 1767
Morgan Hill California

A party may change the address shown above by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

27. Force Majeure. Either party hereto, acting in good faith, shall be excused from performing any obligations or undertakings provided in this Agreement in the event and for so long as the performance of any such obligation is prevented, delayed, retarded or hindered by an act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, strikes, lockouts, eminent domain, inability to obtain labor or materials or reasonable substitutes therefor, non City governmental restrictions, regulations or controls, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, or any court action or judicial orders; unreasonable delays in processing applications or obtaining approvals, consent or permits, filing of legal actions, or any other cause, not within the reasonable control of such party. Active negligence of either party, its officers, employees or agents shall not excuse performance.

28. Rules of Construction and Miscellaneous Terms.

(a) The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.

(b) If a part of this Agreement is held to be invalid, the remainder of the Agreement is not affected.

(c) This writing contains in full, the final and exclusive Agreement between the parties.

(d) The time limits set forth in this Agreement may be extended by mutual consent of the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

APPROVED AS TO FORM:

CITY OF MORGAN HILL

JANET KERN
City Attorney

J. EDWARD TEWES, City Manager

Attest:

IRMA TORREZ, City Clerk

PROPERTY OWNER(S)

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,
MUST BE ACKNOWLEDGED BY A NOTARY)**

EXHIBIT "A"

DEVELOPMENT ALLOTMENT EVALUATION

MC 04-19: E. Main Thrust

(See Entire Documents on File in the
Community Development Department - City Hall)
CITY OF MORGAN HILL

EXHIBIT "B"

DEVELOPMENT SCHEDULE MC 04-19: E.Main Thrust
FY 2006-07, 13 allocations/FY 2007-08, 5 allocations/FY 2008-09, 8 allocations

I.	SUBDIVISION AND ZONING APPLICATIONS	
	Applications Filed:	6-15-05
II.	SITE REVIEW APPLICATION	
	Application Filed:	9-01-06
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	
	FY 2006-07 (13 units)	07-30-06
	FY 2007-08 (5 units)	07-30-07
	FY 2008-09 (8 units)	07-30-08
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check:	
	FY 2006-07 (13 units)	08-15-06
	FY 2007-08 (5 units)	08-15-07
	FY 2008-09 (8 units)	08-15-08
V.	BUILDING PERMITS	
	Obtain Building Permits:	
	FY 2006-07 (13 units)	09-30-06
	FY 2007-08 (5 units)	09-30-07
	FY 2008-09 (8 units)	09-30-08
	Commence Construction:	
	FY 2006-07 (13 units)	04-30-07
	FY 2007-08 (5 units)	04-30-08
	FY 2008-09 (8 units)	04-30-09

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 17 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT "C"

**LEGAL DESCRIPTION
MC 04-19: E. Main Thrust**

The land referred to herein is situated in the State of California, County of Santa Clara, City of Morgan Hill and is described as follows:

Lot 25, as shown on the Map of MORGAN Hill RANCH MAP NO 1, which was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on June 1, 1892 in Book "G" of Maps, Pages 2 and 3.

EXCEPTING THEREFORM that portion there of described as follows:

BEGINNING at a point in the center line of Main Avenue, same being the Northeasterly corner of said Lot 25 as said Avenue and lot are shown upon the Map hereinabove referred to; thence along said center line of Main Avenue South 45° 23' West 80.00 feet; thence leaving said center line and running, South 44 47' East, 180.00 feet; thence North 45° 23' East, along a line parallel with said center line of Main avenue 80.00 feet to a point in the Northeasterly line of said Lot 25; thence along said line of Lot 25, North 44° 47' West 180.00 feet to the point of beginning.

APN 726-16-028



Project Site

Not to Scale



CITY OF MORGAN HILL
Prepared by Community Development Department

VICINITY MAP

ZA-05-05: Main - Marrad

